Volume XXVIII] *June, 1913* *[Number 2*

POLITICAL SCIENCE QUARTERLY

THE POLITICAL THEORIES OF THE GERMAN IDEALISTS. I

Immanuel Kant

WHEN the storm of revolution broke over Europe, Kant was the generally recognized leader of German philosophy. His *Critique of the Pure Reason*, published in 1781, was in the most literal sense an epoch-making work. It produced at once a profound impression on the intellectual life of Germany, and its influence, sustained and promoted by that of the other works that followed it, fixed the lines in which philosophy moved for a century. Yet Kant was not, in the substance of his thought, an innovator. His rôle was rather that of the harmonizer and systematizer of familiar but conflicting doctrines. In metaphysics he mediatized between the dogmatists and intuitionists on the one side and the skeptics and empiricists on the other, who in their reciprocal antagonism had brought philosophy to an *impasse*. Fundamentally Kant was with the intuitionists. For him, as for them, ultimate truth and reality were predicable of ideas that were independent of sense-perception and experience. Yet his analysis of the intellectual faculties, especially of reason itself, gave a new and fruitful aspect to this ancient idealism. At the same time Kant took the doctrines of the empiricists into his system, by a dualism that got as near to formal unity as any like system in history. His *Critique of the Pure Reason* was followed in 1788 by a *Critique of the Practical Reason*. As the first presented the categories and formulas through which all phases of existence could be known in thought, the second presented the categories and formulas through which existence could be

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known in experience. What is thinkable was the subject of the one; what is observable, of the other. To use Kant's own expressions, the one deals with the noumenal, the other with the phenomenal.

Of these two fields of speculation, Kant's most distinctive work was done in the former. By temperament and training he was a closet philosopher, and his genius found most to attract it in what was remote from the thought and action of every-day life. Thus his political philosophy was far stronger in its analysis and definition of the ultimate concepts, liberty, law, rights, state, than in its treatment of government and administration. Kant's proper field was obviously *Staatslehre* rather than *Staatsrecht* or *Politik*. In neither branch of the science, however, did he make any original contribution. His function was to cast the dominant ideas of the later eighteenth century into the categories and formulas of his critical philosophy. His doctrine as to the origin and nature of the state is merely Rousseau's, put into the garb of Kantian terminology and logic; his analysis of government follows Montesquieu in like manner. Kant's admiration for these two French writers[1] was deep and unconcealed, and his incorporation of their ideas into his system was destined to promote greatly the influence of liberalism when the Kantian system got a firm hold on intellectual Germany.

Kant's political philosophy was embodied chiefly in his *Metaphysical First Principles of the Theory of Law*, written in his old age and published in 1796.[2] A year earlier some phases of his doctrine were presented in his brochure, *For Perpetual Peace*.[3] A brief summary of his leading ideas will show how far from novel they were.[4]

[1] Especially Rousseau. See Paulsen, Immanuel Kant, translation, p. 39.

[2] Metaphysische Anfangsgründe der Rechtslehre. This constitutes part i of the Metaphysische Anfangsgründe der Sittenlehre, of which part ii is Tugendlehre. The Rechtslehre, preceded by Kant's general introduction to the Sittenlehre, has been translated by W. Hastie, with the title, The Philosophy of Law (Edinburgh, 1887).

[3] Zum ewigem Frieden.

[4] A very systematic presentation of Kantian political theory in condensed form may be found in Levkovits, Die Staatslehre auf Kantischer Grundlage (Berner Studien zur Philosophie, vol. xiv).

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Men are naturally free and equal. A state is the product of a contract through which individuals put their inalienable rights under the guaranty of the people (*Volk*). The people only is the sovereign and the supreme law-maker; the general will is the ultimate source of law. A constitution is an act of the general will through which a crowd (*Menge*) becomes a people (*Volk*). There are three powers in every state: the sovereign legislative (*Herrschergewalt, Souverainetät*), the executive and the judicial. The separation of the first two in exercise is indispensable to liberty. The forms of state are three in number: autocracy, aristocracy and democracy. The forms of government are two: republican and despotic, according as there is or is not a separation of the legislative and the executive powers. Any form of government (*Regierungsform*) that is not representative Kant declares to be out of rational consideration (*eine Unform*); but the function of representation may be vested in king or nobility as well as in elected deputies.

This body of doctrine is obviously an attempted blend of Rousseau and Montesquieu. If such a blend were logically possible, the subtle intellect of Kant might be expected to succeed in making it. But the difficulties are too great. Upon the dogma of sovereignty, absolute and indefeasible, in the general will of the community, not even Kant's compelling logic can base three forms of state. There is no room—and Rousseau makes this clear[1]—for any such concept as autocracy (monarchy) or aristocracy, when the general will is sovereign. Kant sought to evade Rousseau's conclusion by resort to the dual aspect of philosophy. The sovereign conceived as the general will was, he said, an abstraction, a concept of pure reason (*Gedankending*). To give it objective, practical reality, it must be expressed in physical form, as one or few or many persons.[2] Such an explanation, however, failed to sustain his case, in view of his repeated attribution of sovereignty to the people exclusively, whatever the form of the chief of the state (*Staatsoberhaupt*).[3]

[1] Dunning, "Political Theories of Rousseau," POLITICAL SCIENCE QUARTERLY, vol. xxiv, p. 392.

[2] Rechtslehre, sec. 51. [1] *Ibid.* sec. 52.

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Kant's inconsistency here is due not only to his respect for Montesquieu, but also, probably, to the fact that he was an aged professor in a royal university of the kingdom of Prussia. It was hard in the days of Frederick the Great and his successors (as indeed it has remained to the present day) for a loyal subject of the Hohenzollerns to think of a king as merely a chief executive. Few philosophers have been able to free themselves from the idea that something, at least, of sovereignty inheres in the monarch, no matter how peremptorily they may preach the absolute supremacy of the people or the nation or the state.

Kant's weakness at this point leads him into rather pitiable confusion in several places. He asserts most explicitly that the legislative power pertains solely to the people, yet finds room for a ruler of the people (*Beherrscher des Volks*) who is the legislator (*Gesetzgeber*), not the administrator (*Regent*), who has toward the people rights but no enforceable duties (*Zwangspflichten*), and whose transgressions of the constitution are above any effective control.[1] Against this legislative chief of the state (*das gesetzgebende Oberhaupt des Staats*) there is no right of resistance; and Kant argues passionately against popular revolution. If a constitution is defective, changes must be made "only by the sovereign itself, through reform, not by the people, through revolution."[2] The people (*Volk*) ought not even to inquire too closely into the origin of the supreme power (*oberste Gewalt*), no matter how it came into being.

The inconsistency and incoherence of such doctrine, which so severely test the patience of reader and translator, sprang partly from the conservatism of age and partly from the philosopher's natural antipathy toward turbulence and disorder. Kant's greatest influence was not due, however, to these features of his system, but rather to the exalted idealism of the psychol-

[1] In the Rechtslehre compare sec. 46 with sec. 49 A. Hastie's English version contains abundant evidence of hard labor by the translator in the effort to make the passages consistent. At some points rather daring liberties are taken with the original.

[2] ". . . nur vom Souverän selbst durch Reform, aber nicht vom Volk, mithin durch Revolution." Rechtslehre, sec. 49 A, end.

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ogy and ethics on which his politics immediately depended. His dogmas of the categorical imperative, the autonomous will and humanity as an end in itself sustained a closely articulated system of principles that embodied the absolute truth at the basis of morals, law and politics.[1] A conclusion of the pure reason had for Kant the same unconditional validity that the "idea" had for Plato. The element of will, however, entered very largely into the German's conception and distinguished it from the Greek's. Man appeared, abstractly considered, as rational will, free and self-sufficing. Morality, law and politics were but various aspects of the logical process through which the co-existence of two or more free rational wills could be conceived. Thus a supreme maxim of Kant's practical morality was: "So act that thy will can regard itself as dictating universal laws"; that is, do only that which is consistent with the same action by all others. And law in general (*Recht*) consists in "the possibility of harmonizing a general and reciprocal constraint with the liberty of each." The state, therefore, as a pure idea, is conceivable only through a formula in which the authority of the general will is consistent with the perfect freedom of the individual will. The formula is the social contract. Only through this is the jural state (*Rechtsstaat*) thinkable.

Kant thus came out where Rousseau did, but his route thither was far longer and not less thorny. Throughout his wanderings in the desert of metaphysical subtleties the pillar of cloud and fire that unfailingly guided him was the supreme worth and dignity of a rational being. Liberty and equality, as the necessary attributes of such beings, gleam brightly through the murkiest depths of his *Staatslehre*. And while he assigned proper weight and significance to society and state and people, as collective entities, it was the reason-endowed individual with the autonomous will that was salient in his philosophy. The whole trend of Kant's influence, in political speculation at least, was individualistic; and one of the entertaining episodes in a

[1] Janet's analysis and criticism of Kant's ethics is admirable; Histoire de la Science Politique, vol. ii, pp. 574 *et seq.*

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field that hardly abounds in amusement was the astonishment of the arch-individualist of the nineteenth century, Herbert Spencer, on discovering that one of his most painfully elaborated dogmas had been anticipated by the (to him) unknown German philosopher.[1]

Johann Gottlieb Fichte

Fichte, the brilliant but short-lived (1762–1814) successor to Kant in philosophical preëminence in Germany, presented the same idealizing method as his master. The world of thought and the world of sense were distinct realms, and the former was in last analysis reality. Fichte's dialectic subtlety was, if possible, more refined that Kant's, and his criticism and modification of the Kantian metaphysics made a sensation in the learned circles of Germany.[2] In social and political speculation Fichte's ideas were very greatly influenced by the events of external history. He was far less a closet philosopher than Kant, and his pen was very active in connection with the practical questions of the day. Because of the suspicion engendered by his views on religion and politics, he was forced to leave his position at the University of Jena, in Saxony. Received into Prussian educational circles, he shared with his new people the disasters of the Napoleonic conquest, becoming eventually professor in the recently established University of Berlin. In the deep movement of national feeling that led to the overthrow of the French, Fichte's influence was important; his untimely death came with the triumph of the cause he had promoted.

The experiences of his personal career are readily traceable in their influence on his political theories. His earlier writings include a justification of the French Revolution,[3] in popular style, and a systematic treatise on political science,[4] containing his whole theory of state and government. In these works his

[1] Spencer, Justice (1891), Appendix A.

[2] Adamson, Fichte, *passim*.

[3] Beiträge zur Berichtigung der Urteile des Publikums über die französische Revolution (1793), in Werke, vol. vi.

[4] Grundlage des Naturrechts (1796), in Werke, vol. iii.

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doctrines are substantially those of Rousseau, with less deviation than Kant made. Fichte's later works, however, show a notable shifting of interest. While the individual and his rights had been at first the central point of the theory, the people (*Volk*) and the nation now take that position. In Fichte's *Closed Commercial State*[1] and in his last lectures on the *Theory of the State*[2] there is set forth an elaborate theory of state-socialism and of a national state.[3]

Fichte's political science starts with the rational self-consciousness of the individual. He demonstrates that consciousness of self necessarily implies consciousness of other like beings and of a relation between the self and the others. This relation is the basis of *Recht*—a word that must be translated in this place rather "social regulation" than "law." It involves the recognition by a free rational being that its freedom is limited by the idea (*Begriff*) of the freedom of others. This idea of social regulation (*Rechtsbegriff*) is not to be thought of, Fichte holds, as a product of experience or education; it is inherent in the consciousness of every rational being.[4]

Having deduced the relation of beings considered as merely intelligences, he proves with like formalism that material bodies are inevitable appurtenances of such beings, making them persons, and complicating the problem of their reciprocal freedom. This problem, reached after the philosopher's wide rambles in metaphysics, is the familiar one with which Rousseau opens his *Contrat Social*, though the striking metaphor of the Genevese is not suggested in the cold phrase of the German: "How is a community of free beings as such possible?" The answer is Rousseau's: through a social contract, effecting a union of wills and maintaining the autonomy of each.

Fichte departs from the usual doctrine, however, in respect

[1] Der geschlossene Handelsstaat (1800), in Werke, vol. iii.

[2] Die Staatslehre (1813), in Werke, vol. iv, pp. 369-600.

[3] For a clear and interesting account of the currents in Fichte's philosophy as disclosed in these works see Bluntschli, Geschichte der neueren Staatswissenschaft, pp. 414 *et seq.*

[4] "Deduction des Begriffes vom Rechte" is the subject of the Erstes Hauptstück of his Grundlage des Naturrechts; Werke, vol. iii, pp. 17–55.

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to natural rights and the state of nature. There is no pre-social state of nature, he holds, in which men possess natural rights. "The state (*Staat*) itself is men's natural condition (*Naturstand*)." There is indeed no such thing as natural rights (*Urrechte*), in the plural. Only natural right (*Urrecht*), in the singular, is a rational concept; and this he defines as "the absolute right of the person to be, in the world of sense, only cause and never effect"—a conception which is identical, he explains, with that of an absolute will.[1]

Fichte's doctrine thus is that personality necessarily implies the untrammeled activity of the rational will. Restriction of that activity is conceivable only as self-restriction. This is the dictum of pure thought and thus of natural law (*Naturrecht*). The realization of this idea in the world of sense (*Sinnenwelt*) requires a formula of action through which, as he expresses it, a will is produced "in which private will and general will are synthetically united." The terms of this synthesizing process are those of Rousseau's contract. But Fichte carries his analysis of the contract to a refinement that would have made Rousseau stare and gasp. Three distinct agreements are shown to be involved in the social pact. By a very bold and striking generalization Fichte includes the whole sphere of individual freedom under the concept "property," which he defines as "rights of free action in the world of sense."[2] The precise boundary to the property of each is fixed by a first contract of each with all. Each abandons his claim to what lies without a certain sphere, on condition that all abandon their claims to what lies within that sphere. This property contract (*Eigenthumsvertrag*) is followed by the protection contract (*Schutzvertrag*), by which each agrees to contribute his share of the force necessary to maintain the partitions established by the former agreement. Then comes a third pact by which each agrees with each to unite into a whole for the effective accomplishment of the ends involved in the prior contracts. This

[1] ". . . das absolute Recht der Person, in der Sinnenwelt *nur Ursache* zu sein (schlechthin nie Bewirktes)." Werke, vol. iii, pp. 113, 119.

[2] "Rechte auf freie Handlungen in der Sinnenwelt." Werke, vol. iii, p. 195.

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union contract (*Vereinigungsvertrag*) completes the social pact (*Staatsbürgervertrag*) and constitutes a sovereign. Fichte takes great pains to avoid the idea that the individual is merged entirely in the sovereign state. Rousseau's dictum, that each gives up himself and all his possessions, is vigorously repudiated.[1] Protection of the rights that make up the individual is to Fichte the function of the state, and, beyond what is given up as indispensable to the realization of this function, the sphere of individuality remains intact.

To determine with some precision what, on grounds of pure reason, is included in the scope of the state's function, especially in the matter of trade, is the purpose of Fichte's *Closed Commercial State*. He rejects emphatically the idea that the end of the state is "to make men happy, rich, healthy, orthodox, virtuous and, God willing, saved eternally." On the other hand he likewise denies what he had earlier asserted, or appeared to assert, that it is the function of the state "merely to preserve and protect each in his personal rights and his property." To Fichte the scientific formula is: "To give to each for the first time his own, to install him for the first time in his property, and then first to protect him in it."[2]

What is meant by giving to each his own, is elucidated in an interesting scheme of economic organization. In any society, Fichte declares, the division of productive activities among various classes—farmers, artisans, merchants—rests upon contract of each class with every other class and, within each class, of each individual with his fellows. The substance of these various contracts is that the parties refrain from encroaching on one another's special field. As a result, the sphere of free activities is divided among all the individuals, and the share that comes to each is his property, in the scientific sense of the term. These individual properties must, for any particular occupation (*Wirkungssphäre*), be precisely equal in value, as Fichte proves by elementary mathematics. The total value, of

[1] Werke, vol. iii, p. 205.

[2] Der Geschlossene Handelsstaat is in Werke, vol. iii, pp. 389–513. For the passages above cited see bk. i, ch. i.

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any occupation is, he says, the sum of satisfactions (*Annehmlichkeit des Lebens*) resulting from it. Divide this sum by the number of individuals in that field, and the quotient is what belongs to each. The shares may be larger or smaller according to circumstances, but it is inconceivable that they ever under given circumstances differ from one another.[1]

By this reasoning Fichte establishes the meaning of his dogma that the state must give to each his own. It must secure to every individual that share of satisfactions which is his according to the principles above laid down. In the *Closed Commercial State* the philosopher deduces the industrial and commercial system, through which alone, in the view of pure reason, this purpose can be fulfilled. The state must adjust the proportions between the three chief classes of producers, (1) farmers, miners and the like, (2) artisans and (3) merchants, limiting each to a fixed number of individuals; must insure to each individual a proportionate share of all the raw and manufactured products of the country; must for this purpose fix and maintain the relative value and money price of all these commodities; and finally, as absolutely indispensable to the foregoing ends, must render impossible direct trade between citizens and the foreign world.[2] So far as commerce with other peoples may be deemed desirable, it must be carried on by the state itself.

These are astonishing conclusions to be derived from the strongly individualistic premises of Fichte's philosophy. He was turned in this unexpected direction not only by the idealizing spirit that produced a like doctrine in Plato, but also by a consciousness of the economic influences that underlay the developing idea of a national state. Indeed, though he did not cease to insist that his closed commercial state was a concept of the pure reason (*Vernunftstaat*), he set forth very clearly the concrete conditions, historical and contemporaneous, that bore upon its objective realization. To be economically exclusive and self-sufficing, he argued, was of precisely the same significance politically as to be exclusive and independent in

[1] Werke, bk. i, ch. i, sec. 2.

[2] *Ibid.* vol. iii, p. 440.

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legislation and judicature. Christian Europe was originally a political unit with a common government, a common law and, appropriately enough, general freedom of commerce. The modern states have arisen through the creation of separate governments and distinct systems of law; but the corresponding differentiation of commercial relations has not been reached. The idea that men shall freely trade with one another regardless of their political allegiance is a relic of an outgrown past.[1] What is suitable to the present, Fichte argues, is an economic solidarity and exclusiveness among fellow-citizens no less perfect than the governmental exclusiveness already attained.

The geographic basis of such a state, Fichte found indicated by nature herself. "Certain parts of the earth's surface, with their inhabitants, are evidently determined by nature to form political units."[2] Set off by seas, rivers or impassible mountains and embracing diversities of soil adapted to produce all desirable varieties of goods, such a region should be the situs of a self-sufficing community. This, Fichte declared, was the point of view from which to perceive the true meaning of the term "natural boundaries," so common in modern politics. It means not, as commonly used, the line best adapted to military ends, but rather the line that marks the bounds of economic independence and self-sufficiency. Such boundaries a state must have—no more, no less. Shut up within them and rigidly excluding the poison of unregulated intercourse with citizens of other communities,[3] a people will realize the ends of a rational state (*Vernunftstaat*). Wars will cease. It has long been the privilege of philosophers, says Fichte, to sigh over war. End world commerce, with the ambitions and rivalries engendered by it in the nations, and the most prolific source of

[1] "Alle Einrichtungen welche den unmittelbaren Verkehr eines Bürgers mit dem Bürger eines anderen Staates erlauben oder voraussetzen, betrachten im Grunde beide als Bürger Eines Staats, und sind Ueberbleibsel und Resultate einer Verfassung die längst aufgehoben ist, sind in unsere Welt nicht passende Theile einer vergangenen Welt. Werke, vol. iii, pp. 453–454.

[2] Handelsstaat, bk. iii, ch. iii.

[3] Foreign travel must be prohibited except to highly qualified persons (der Gelehrte und der höhere Künstler), duly authorized by the government. *Ibid.* bk. iii, ch. i.

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war will disappear.[1] Freed from the tale of distractions and woes from this source, the closed commercial state will give full scope to the capacity that it has for comfort and culture and will surely guarantee to every individual citizen that which in the profoundest sense is his own.

In his later years Fichte carried his socialistic doctrines equally far in another direction. He still insisted on the duty of the state to guarantee the citizen's material existence, and he declared categorically that the government must insure to each the opportunity to work for a living, while insuring at the same time that each do his share of the work provided: there must be neither pauper nor idler in the rational state.[2] But a different aspect of life from the physical engaged the philosopher's interest. After Prussia was crushed and dismembered by Napoleon in 1806–1807, Fichte joined eagerly in the search for the explanation of so astounding a calamity. He found it in the lack of a clear political consciousness in the conquered. His famous *Addresses to the German People*[3] set forth an exalted conception of the character and mission of the Germans, with eloquent appeals for political and educational institutions suited to the realization of this mission. Under the influence of his interest in Prussia's revival, his scientific conception of the state was transformed to correspond. Not the mere man, but the trained man—the man of complete moral and intellectual culture—must be, Fichte now held, the center of political theory, and the development and protection of such individuals must be the real function of the state. Fichte's elaboration of this idea, with the conception of the government as primarily an educational institution, often runs parallel in many places with the lines of Plato's Republic. From such views the individualism of Fichte's early philosophy seems remote indeed!

In respect to government and constitution as distinct from state (*Staatsrecht* as distinct from *Staatslehre*), Fichte's doctrines were more consistent and coherent than Kant's. Legis-

[1] Handelsstaat, bk. iii, ch. i.

[2] *Cf.* Werke, vol. iii, p. 214.

[3] Reden an die deutsche Nation, in Werke, vol. vii.

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lation (*Gesetzgebung*) was to Fichte as to Rousseau a term denoting exclusively the will of the sovereign people. The executive function included the judicial and must necessarily be exercised by representatives, constituting the government (*Regierung*). The government might be monarchic or aristocratic, hereditary or elective; it could never be democratic, that is, the people as a whole could not act as administration. To insure that the sovereign will of the people, as embodied in the laws (*Gesetze*) forming the constitution, should not be overridden by the government, Fichte conceived an institution named the ephorate (*das Ephorat*) that he regarded as indispensable to a rational constitution (*vernunft- und rechtmässige Staatsverfassung*).[1] The right of final judgment upon the conduct of the government must inhere necessarily in the people as a whole. To assign to any organ of the government the function of deciding whether the laws were being properly administered would be to make that organ supreme; to assign to any organ even the function of deciding when the people should be called upon to express their opinion upon the situation would have the same tendency to exalt the government over the sovereign. Hence the need for a body of ephors, wholly distinct from the government, and having no other duty than that of setting in motion, at the time they judged proper, the machinery through which the will of the sovereign people as to the constitution and laws can be expressed.

Such was Fichte's contribution to the solution of the much debated problem, how to keep the government in accord with the constitution without permitting any branch of the government to shape the constitution at its will. That his ephors would not solve the problem is suggested by what we know of Sparta, whence the very name was derived. The Spartan ephors became practically the supreme power in the state.[2] Fichte himself, in his later years, lost confidence in his ephorate as a practicable means of preserving the constitution, and he

[1] Werke, vol. iii, pp. 160, 171.

[2] Dunning, History of Political Theories, vol. i, p. 10. Ephors had figured in the theory of Althusius, but with a function only slightly resembling that assigned to them by Fichte. *Ibid.* vol. ii, p. 64.

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found nothing to suggest in its place but the purely ideal conception that the functions of government should be entrusted only to all-wise philosophers, whose pure and unerring intelligence would never deviate from the straight line.

One source of Fichte's difficulties at this point was the same that made trouble for Kant—the independent position of the hereditary monarch. Where such an institution existed, if participation in the constituent function were permitted to the government, the supreme law would tend to be at the mercy of the prince. How real is the logical need for such an organ as Fichte's ephors were intended to be may be estimated by reflection upon the constitution-making influence actually exerted by two famous governmental bodies much less powerful *a priori* than a princely executive—the British Parliament and the Supreme Court of the United States.

WM. A. DUNNING.

[*To be continued*]

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VOTING ORGANIC LAWS

THE ACTION OF THE OHIO ELECTORATE IN THE REVISION OF THE STATE CONSTITUTION IN 1912

NOW that direct legislation, long familiar to us as a method of constitutional amendment, is beginning to be employed in matters of less fundamental importance, it is of interest to know how earnestly, fairly and intelligently the people apply themselves to lawmaking. When confronted in 1912 by the task of recasting their sixty-year-old constitution, how did the 1,300,000 voters of Ohio behave? Their attitude is especially worthy of investigation, because of the unprecedented number and unusual importance of the measures submitted to their judgment.

The problems involved in the constitutional revision of 1912 were extremely complex. Some of these problems, such as taxation and judicial reform, had been inherited; others of mammoth proportions had been created by corporate wealth and organized labor. There was a growing demand that the state abandon the *laissez faire* policy and become the protector of the common citizen and the laborer in their struggle against organized wealth. A new sort of political thinking had also to be reckoned with, for the feeling seemed general that more political power should be given to the people themselves, through such devices as direct primaries and the initiative in legislation. All these feelings and demands pointed to a radical overhauling of the old constitution.

I

A vote to call a constitutional convention would normally have been taken at the general election of 1911; but while this event was still more than a year distant, several organizations began to urge the people to call such a convention. Ohio's antiquated general property tax, based on a uniform classification of property, had for years been condemned by students

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and by business men. Early in 1910, therefore, in the hope of securing the classification of property for taxation, the Ohio State Board of Commerce[1] began to ask for a constitutional convention. Other organizations soon rallied to the support of this movement. Realizing the opportunity which a constitutional revision would bring to them, the friends of the initiative and referendum set their state organization[2] at work for the same end; while, in the hope of securing an amendment licensing the liquor traffic, the liquor interests joined in the demand.

The efforts of these varied interests soon bore fruit. In the spring of 1910 the state legislature decided to submit to the voters at the general election of that year the question: "Shall there be a convention to revise, alter or amend the constitution?" It was also provided by law that political parties might endorse this proposal on their party tickets. This offer was accepted by both of the leading parties, so that every man who voted a straight Democratic or Republican ticket voted for a convention. The natural consequence was an almost unanimous ballot in favor of the proposal. The results of the election were as follows:

Total vote cast	932,262
Vote for convention	693,263
Vote against convention	67,716

It is possible to determine with considerable accuracy the interest which the voters of the state felt in the calling of the convention. It was, of course, much less than that felt in the selection of the ordinary state officers. Probably most of the citizens who voted the straight Democratic and Republican tickets were unaware of the proposal to call a constitutional convention and voted for it unwittingly. About 20 per cent of

[1] The Ohio State Board of Commerce was organized in 1893 and began its campaign for tax reform in 1901. It claims to have caused the passage, in 1907, of the Permanent Tax Commission law. After the defeat, in 1908, of the last of a series of tax-reform amendments to the constitution, it turned its attention to pushing the bill for a constitutional convention. In 1912 the board's membership was about 2500, while its organ, *The Ohio Journal of Commerce*, had a circulation of about 6000. See files of *Ohio Journal of Commerce*, 1910–1912.

[2] The Ohio Direct Legislation League.

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those who came to the polls, in scratching the ticket, failed to vote at all upon this proposal. From past experience, this result might have been anticipated. But was it also to be expected that the proposition to call a constitutional convention would arouse less interest than the ordinary constitutional amendments upon which the people had frequently voted? And yet this was the case. Three amendments were submitted to the voters of Ohio in 1903 and two in 1905. Under the provisions of the Longworth Act[1] the leading political parties indicated upon the official ballot their approval or disapproval of the amendments. Not one of these amendments failed to poll more votes than did the call for a convention—endorsed, as we have seen, in the same way.[2] In 1903 the total vote was 55,059 less than in 1910, but in the former year the amendment giving the governor the veto polled 36,017 more votes than were cast in 1910 for the proposal to call a constitutional convention. Thus, in spite of the agitation in its favor, in spite of the apparent need for constitutional change, the people of the state were decidedly indifferent. In the words of Mr. Galbreath, later secretary of the convention, "it is very doubtful whether the proposition would have carried if placed in a separate column of the ballot."[3]

Following this rather perfunctory decision of the people, the state legislature provided for a constitutional convention to meet within three months after the election of the delegates in November, 1911. The liquor interests, the Anti-Saloon League, the friends of labor and the advocates of direct legislation, all

[1] The Longworth Act was passed in 1902. "Briefly stated, it authorized a political party to include as a part of its ticket an affirmative or negative vote on a constitutional amendment, and every elector who put his cross under the party emblem voted accordingly." Galbreath, Constitutional Conventions of Ohio, p. 46. This law was repealed in 1908.

[2] The total vote on these amendments was as follows:

Governor's veto (1903)	796,998
County representation (1903)	784,002
Stockholders' single liability (1903)	782,771
Bond exemption (1905)	794,570
Biennial elections (1905)	793,461

[3] Galbreath, "The Vote on the Ohio Constitution." *The Independent*, December 19, 1912.

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busied themselves during the summer in efforts to secure the election of pledged delegates. Every newspaper in the state urged upon its readers the epoch-making importance of the convention and the need of sending only men of proved sagacity and integrity; but many of these papers warmly denounced the policy of sending pledged delegates, or "one-idea men," as they were aptly called.

In contrast to the discouraging indifference to the call for the convention, there was a fair interest shown in the selection of delegates. Three counties (Clermont, Franklin and Jefferson) actually polled a larger vote for constitutional delegates than they did the year before for governor. In several other counties the vote for delegates was almost as large, but in the state as a whole it was considerably less.[1] In Mahoning County only 25.6 per cent of those who voted at the general election of 1910 voted for constitutional delegates,[2] but the small vote was perhaps partly due to the separate and non-partisan ballot.

II

The convention began its work in January, 1912, and was in session for six months. The widest publicity was given to its deliberations by the press. It finally evolved forty-two amendments to the constitution, and these it decided to submit to the people at a special election on September 3. No opportunity was given to vote a "straight ticket" on these proposals: every one was to be voted upon separately. The fate of the new constitution was thus left in the hands of the people.

The provision requiring a separate vote on each amendment met with state-wide and hearty approval; but it also caused thinking men to realize the responsibility resting upon every Ohio voter and the need for a campaign of education. It is of

[1] It is impossible to compute a numerical percentage, because the exact total vote for delegates cannot be determined in those counties where more than one candidate was to be voted for. In Cuyahoga County, for example, where ten delegates were to be chosen from among thirty-two candidates, the total vote of the county could be learned only from the numbers on the poll-books—information which is not on public record. This was the case in eleven counties.

[2] In this county the vote for delegates in 1911 was only 3,900, while the vote for governor in 1910 was 15,210. Reports of Secretary of State, 1910, 1911.

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interest, therefore, to determine the amount and character of the publicity given to the forty-two proposals during the summer of 1912. The convention itself made an endeavor to give publicity to its work. About 1,500,000 copies of "An Address to the People," containing the full text of each proposed amendment with a brief explanation and exhibiting a sample ballot, were sent out over the state through the agency of the convention. No effort was made, however, to see that every voter in the state had one of these pamphlets; all that was done was to make it easy for each voter to get it if he were interested enough to ask for it.[1]

The chief agency for publicity was, of course, the press. Practically every newspaper in the state strenuously urged its readers to make a careful study of the forty-two proposals. Editorials relative to the constitutional changes appeared constantly throughout the summer. Some newspapers treated the subject rather perfunctorily, but many printed a systematic discussion of each amendment with the editorial judgment of its merit. In addition to this newspaper publicity, there was also much activity among the organizations, factions and interests that were directly concerned.

The convention itself had endeavored to secure the adoption of the entire constitution, as is shown by the explanations appended to the several amendments in its "Address to the People."[2] Proposal 10, for example, reads: "Laws may be passed fixing and regulating hours of labor, establishing a minimum wage, providing for the comfort, health, safety and general welfare of all employees, *etc.*" The explanation appended is a scarcely veiled argument for its adoption. It reads: "This amendment will permit the passage of *humane laws in conformity with modern industrial development*, to improve the

[1] In Oregon much greater publicity was given by the state to the initiative and referendum proposals submitted at the general election of 1912. A pamphlet of 252 pages containing all the measures, with arguments opposing or defending them, was published by the secretary of state and was sent to every voter, whether he asked for it or not, and this in an election far less important than that held in Ohio.

[2] These explanations were written by the committee on "submission and address to the people." They were approved by the convention.

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conditions of employment of men, women and children." This explanation is typical. Moreover, many members of the convention wrote or spoke during the summer months in favor of the adoption of the amendments. The mayors of large cities, other municipal officers and students of municipal government labored in behalf of municipal "home rule," while the State Bar Association endorsed the judicial amendments. Labor leaders, equal suffrage advocates, liquor dealers and the friends of direct legislation worked earnestly for the success of their respective causes.

Quite as strong was the opposition to many of the amendments. Cleveland's unpleasant experience with voting machines led her to fight the proposal to allow their use. Bill-board companies, feeling that their business was in danger, vigorously opposed the amendment to regulate out-door advertising. The Anti-Saloon League brought its guns to bear upon the license proposal, and an organization of women urged the defeat of woman suffrage. Chagrined at the defeat in the convention of the much-desired tax reform,[1] alarmed at the concessions made to organized labor and fearful of the effect of the initiative and referendum upon business, the Ohio State Board of Commerce opposed every important amendment. Voicing the sentiments of conservative business men, this organization pleaded that the "constitution under which the people of Ohio have lived and prospered for sixty years" should be retained intact. In a pamphlet of 160 pages it bitterly attacked most of the amendments and advised the Ohio citizen: "When in doubt, vote No." Many newspapers in the smaller towns and rural counties echoed this advice. Those who opposed the amendments were particularly aroused

[1] This was, perhaps, the most disappointing feature of the convention's work. The most widely circulated papers in the state had urged the reform. The opposition to classification of property seems to have come chiefly from the farmers. While the convention was in session, the 1911 report of the Ohio Tax Commission appeared. The commission did not favor the classification of property and seems to have analyzed the situation correctly when it declared: "The people of this state are wedded to the theory of a general property tax and a uniform *ad valorem* method of assessment. This system of taxation is ingrained with them, having been, as it were, plowed into their very consciousness." Annual Report of Ohio Tax Commission, 1911, p. 35.

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because a mere majority of the votes cast on an amendment would suffice to carry it, so that if the careless voter did not take the trouble to express his disapproval of the amendments at the polls they might carry "by default."[1]

Naturally there was much criticism because of the brief time allowed for studying the amendments. Considering the hot weather and the excitement of the presidential campaign, many papers urged that the time was quite too short. It was declared that the voters ought to have at least as much time to study the proposals as the convention had taken to formulate them. Similar criticisms came from outside the state: the *Springfield Republican*, in commenting on the constitutional election, declared that the fundamental problems involved in the amendments might well have engaged the attention of the best intelligence of Ohio for ten years. But, in spite of the critical importance of these problems, little more than the one month preceding the election was actually utilized in an active campaign to enlighten the voters upon the amendments; and it is doubtful whether any concerted efforts to educate them would have extended over a longer time had the election been postponed.

On the whole, however, the new constitution was fairly well advertised. It is true that information and literature had not been forced upon reluctant citizens, but there was certainly small excuse for a voter's remaining ignorant upon these important questions if he had a real desire to be informed.

III

It was foreseen that the vote on the amendments would be small. The attention of the state and of the nation had been absorbed for months by one of the most spectacular presidential campaigns in our political history. Men, and not prosaic constitutional amendments, held the interest and imagination of the people. Furthermore, the amendments were

[1] Art. xvi, sec. 1, of the constitution of 1851, made a majority of the votes cast at the general election at which an amendment was voted upon necessary for its adoption. Under this arrangement the failure to vote upon an amendment was practically equivalent to voting against it.

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to be voted upon at a special September election. The expectations of a light vote were fully realized. The highest vote polled on any amendment, that on woman suffrage, was 586,295, and the license proposal footed the list with 462,186 votes. Of the million voters who came out two months later to vote for president and governor, only one-half took the trouble to vote in September on the constitutional amendments.[1] In view of the great importance of the proposals, this vote was remarkably small. It compares unfavorably with earlier votes on constitutional revisions. In 1851 somewhat more than 83 per cent of those who voted for governor came out to a special election and voted on the new constitution; and in 1874 the number who voted on the proposed constitution at a special election represented nearly 60 per cent of those who voted for governor in the following year.[2] In most of the counties of the state, where statistics are obtainable,[3] the voters showed more interest in the choice of delegates at the general election of 1910 than in accepting or rejecting the work of those delegates at the special election of 1912. In Clermont and Pike counties, for example, only about half of those who voted for delegates took the trouble to vote on the constitution. In one or two counties, however, the vote on the amendments was larger than the vote for delegates. On the whole, it is fair to say that the people of Ohio showed very little interest in the

[1] The vote for president in 1912 was 1,030,934; that for governor was 1,036,731. The largest and smallest votes cast on the constitutional amendments were, respectively, 56.5 per cent and 44.6 per cent of the vote for governor. Of the vote for governor in 1910, which was 932,262, the vote cast for the constitution in 1912 was 62.8 per cent. In computing these and the following percentages, the highest number of votes polled by any amendment is taken to represent the total number of persons voting on the constitution. The actual number of voters could be learned only from the poll books, and this information was not available. The probable error involved in this computation is very slight.

[2] Vote for governor in 1851 282,182
Vote on constitution, 1851 234,840
Vote for governor, 1875 592,700
Vote on constitution, 1874 353,054

There was little agitation in favor of the constitution of 1874. This may have been partly responsible for the light vote.

[3] *Cf. supra*, p. 210, note 1.

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fundamental constitutional changes which they had bidden their representatives submit to them in 1912.

There was much conjecture before the election as to the relative interest which the various proposals would arouse. One editor declared that "thousands of men will either pass up the ticket with one or two marks, or they will refuse to mark it at all—the liquor license will likely have tens of thousands more votes than any other article, not excepting the initiative and referendum."[1] The difference between the highest and lowest vote polled on single amendments was, however, only about 20 per cent of the total vote. Moreover, the license proposal, as we have seen, brought out the fewest votes of all. This was probably due to its position on the official ballot. Lest it should endanger the other amendments, it was placed in a separate column, and it was apparently overlooked by many voters. The rather remarkable evenness of the voting on these widely different proposals would indicate that a large number of the voters had followed either the advice, "When in doubt, vote No," or the opposite injunction, "When in doubt, vote Yes." The average voter did not seem to be disturbed by the fact that some of the amendments were less intelligible and interesting to him than others. With what intelligence he had, he voted in most cases on everything that was presented to him.

In so far, however, as the people did show varying interest in the different amendments, the variation is worthy of attention. The first column of figures on the right-hand side of the table on pages 216–217 shows how the amendments ranked according to the total vote cast upon each. It is not surprising that woman suffrage (23), abolition of capital punishment (2) and the initiative and referendum (6) drew a heavy vote, while the schedule (41) and some of the more technical and obscure amendments aroused less interest or a paralyzing perplexity. It is evident that the electors voted most freely, in general, on matters with which they were most familiar or which had been most widely discussed[2]; and that their personal familiarity with

[1] *Coshocton Times.*

[2] The singular fact that the liquor license amendment drew out the smallest vote cast has already been explained *supra.*

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ORDER ON BALLOT	TITLES OF AMENDMENTS	RANK ACCORDING TO		
		SIZE OF TOTAL VOTE	FAVOR SHOWN IN CONVENTION	FAVOR SHOWN AT POLLS
1	Reform in civil jury system.	5	14	9
2	Abolition of capital punishment.	3	42	40
3	Depositions by state and comment on failure of accused to testify in criminal cases	23	26	26
4	Suits against the state.	19	20	19
5	Damage for wrongful death.	4	33	8
6	Initiative and referendum.	9	30	24
7	Investigations by each House of General Assembly.	17	5	3
8	Limiting veto power of governor.	11	16	29
9	Mechanics' and builders' liens.	22	4	28
10	Welfare of employees.	10	21	6
11	Workmen's compensation.	13	12	15
12	Conservation of natural resources.	36	19	12
13	Eight-hour day on public work.	2	25	18
14	Removal of officials.	20	10	4
15	Regulating expert testimony in criminal trials.	21	29	7
16	Registering and warranting land titles.	26	39	2
17	Abolishing prison contract labor.	6	36	14
18	Limiting power of General Assembly in extra sessions.	35	6	10

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19	Change in judicial system.	37	17	31
20	Judge of court of common pleas for each county.	16	22	25
21	Abolition of justices of the peace in certain cities.	28	13	33
22	Contempt proceedings and injunctions.	40	23	37
23	Woman suffrage.	1	41	42
24	Omitting word "white".	39	9	39
25	Use of voting machines.	15	15	41
26	Primary elections.	14	38	5
27	Organization of boards of education.	32	28	22
28	Creating the office of superintendent of public instruction to replace state commissioner of common schools	38	31	34
29	To extend state bond limit to fifty million dollars for inter-county wagon roads.	7	34	36
30	Regulating insurance.	27	18	13
31	Abolishing board of public works.	33	2	23
32	Taxation of state and municipal bonds, inheritances, incomes, franchises and production of minerals	24	37	32
33	Regulation of corporations and sale of personal property.	30	11	20
34	Double liability of stockholders and inspection of private banks.	12	35	1
35	Regulating state printing.	31	1	11
36	Eligibility of women to certain offices.	8	8	38
37	Civil service.	34	32	16
38	Out-door advertising.	18	40	35
39	Methods of submitting amendments to the constitution.	25	3	30
40	Municipal home rule.	29	24	21
41	Schedule of amendments.	41	7	27
42	License to traffic in intoxicating liquors.	42	27	17

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matters in question counted for more than the amount of public discussion is evidenced by the small votes cast on the amendments dealing with the civil service (37), the conservation of natural resources (12) and contempt proceedings and injunctions (22).

The last two columns in the table show the degree of favor with which the forty-two amendments were regarded in the convention and at the polls respectively. The last column is particularly interesting, because it indicates how the voters discriminated among the amendments submitted to them; the next to the last is less significant, because every amendment passed in the convention by a vote of more than two to one. A comparison of the two columns shows that the people did not, to any marked degree, follow the lead of the convention in their ranking of the proposals. Twelve amendments were passed unanimously by the convention; of these, two were defeated at the polls, while four others encountered marked opposition. On the other hand, half of the dozen or so amendments most closely contested in the convention were among these which received largest majorities at the polls.

Among the fifteen amendments which found most favor with the people, the following groups may be distinguished. There are six—double liability of stockholders (34), registering and warranting of land titles (16), welfare of employees (10), damages for wrongful death (5), regulating insurance (30), workmen's compensation (11)—which either facilitate the assertion of rights of the individual or increase the state's power to care for his interests. Several of these are in the special interest of labor, as is also the amendment abolishing prison contract labor (17). There are two—reform in civil jury system (1) and regulating expert testimony in criminal trials (15)—that tend to improve the administration of justice in the courts. There are four—investigations by each House of General Assembly (7), removal of officials (14), regulating state printing (35), limiting power of General Assembly in extra sessions (18)—which indicate the people's distrust of their public servants and a desire to hobble and check them. There are two—primary elections (26) and civil service (37)—

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which show that the people wish to shake off the tyranny of the politicians, and to exercise greater control of their own affairs. Turning to the eight amendments that were defeated, we find that four—out-door advertising (38), "good roads" (29), contempt proceedings and injunctions (22), use of voting machines (25)—would either be an expense to the state or would endanger property rights of individuals. Three of the others—women suffrage (23), eligibility of women to certain offices (36), omitting the word "white" (24)—are of such a character that the voter would (or might erroneously imagine he would) be giving political privilege to those who do not have it now. Is it not possible from these facts to draw the following conclusions regarding the working of the public mind? The people are progressive in regard to measures which increase their political rights, their control over public officials and the protection of their property rights. They are conservative when asked to spend money or share political power.

IV

A consideration of the way in which different parts of the state voted on the more important amendments is of interest.[1] In twelve of the eighty-eight counties of Ohio, from 55 per cent to 85 per cent[2] of the people live in large cities. These are the counties in which Cleveland, Cincinnati, Columbus, Toledo, Dayton, Canton, Youngstown, Akron, New Lisbon, Lorain, Hamilton and Springfield are situated. They contain almost half the population of the state. The city population of Ohio, represented by these counties, voted in favor of almost all the amendments submitted, and their aggregate vote was favorable to every proposal except woman suffrage. Cleveland rejected only woman suffrage and the provision for voting machines, while Toledo and Akron approved every amendment. On the whole, the northern cities were more consistently and decisively favorable to the constitutional

[1] *Cf.* maps facing p. 224. These show the attitude of the single counties on four of the proposals.

[2] U. S. Census, 1910.

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changes than those in the southern part of the state. This may have been partly due to the support of organized labor, which is more powerful in the manufacturing centers of Cleveland, Youngstown, Akron and Lorain than in other parts of the state. The city influence was felt, moreover, in many of the neighboring counties, as is shown, for example, by the fact that the twelve counties (Ashtabula, Lake, Cuyahoga, Lorain, Medina, Summit, Geauga, Portage, Stark, Trumbull, Mahoning and Columbiana) in the northeastern corner of the state voted, for the most part, like Cleveland, Youngstown and Akron. This was probably due to the influence of the Cleveland newspapers.[1] It is interesting to note that these twelve counties comprise the greater part of the old Western Reserve of Connecticut and were originally settled by people from New England.

Every amendment that passed received its heaviest majority in the cities. It is a more striking fact, however, that of the thirty-four amendments that were passeed, nineteen would have been defeated had it not been for the vote of the twelve urban counties above mentioned. The following proposals were thus carried by the the cities in the face of the opposition of the rest of the state:

BALLOT NO.	TITLE
3	Depositions by state and comment on failure to testify in criminal cases.
4	Suits against the state.
6	Initiative and referendum.
8	Limiting veto power of governor.
9	Mechanics' and builders' liens.
11	Workmen's compensation.
13	Eight-hour day on public work.
17	Abolishing prison contract labor.
19	Change in judicial system.
20	Judge of court of common pleas for each county.
21	Abolition of justices of peace in certain cities.
27	Organization of boards of education.
28	Creating office of superintendent of public instruction.
31	Abolishing board of public works.

[1] *Leader*, *Plain Dealer*, *News*, *Press*.

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BALLOT NO.	TITLE
32	Taxation of state and municipal bonds, inheritances, incomes, franchises and production of minerals.
39	Methods of submitting amendments.
40	Municipal home rule.
41	Schedule of amendments.

These amendments are not, on the whole, of a character to arouse strong opposition; but they are the most technical and the least intelligible to the uninformed voter. Obviously, the urban counties were the centers of publicity regarding the proposals, and the average city voter, with his better understanding of the amendments, voted yes where many an uninformed rural voter voted no.

The vote of the rural counties presents a striking contrast to that of the cities. Seven counties (Clinton, Fayette, Champaign, Union, Delaware, Wyandot and Van Wert) registered decisive majorities against every amendment; and nine others (Ross, Pickaway, Greene, Madison, Licking, Muskingum, Darke, Shelby and Marion) voted down every proposal except license. Not only were these counties rural, but they were, on the whole, farthest removed from the progressive northern cities and were, consequently, little influenced by them. The following amendments, alone, would have carried in the state at large without the help of the cities:

BALLOT NO.	TITLE
1	Reform in civil jury system.
5	Damage for wrongful death.
7	Investigation by each House of General Assembly.
10	Welfare of employees.
12	Conservation of natural resources.
14	Removal of officials.
15	Regulating expert testimony in criminal trials.
16	Registering and warranting land titles.
18	Limiting power of General Assembly in extra sessions.
26	Primary elections.
30	Regulating insurance.
34	Double liability of stockholders and inspection of private banks.
35	Regulating state printing.
37	Civil service.
42	License to traffic in intoxicating liquors.

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Amendments 1, 5 and 10 probably carried because of the attractiveness of their titles, which do not give a clear idea of their real content. Amendments 26 and 37 would be popular with any group of voters. All the others in the list are conservative and some are restrictive in character.

Mention might be made of the seven amendments which the rural districts were able to defeat in spite of the favorable majorities cast by the cities. These amendments were:

BALLOT NO.	TITLE
2	Abolition of capital punishment.
22	Contempt proceedings and injunctions.
24	Omitting the word "white."
25	Use of voting machines.
29	To extend state bond limit to fifty million dollars for inter-county wagon roads.
36	Eligibility of women to certain offices.
38	Out-door advertising.

The rural districts seem to have feared that voting machines would be expensive and complicated to operate. Their opposition, with that of Cleveland, where the machines had proved unsatisfactory, defeated the amendment. The proposal for "good roads" was opposed in the country districts where roads were already good, and because of a general dislike of bonding the state. There was a feeling, moreover, that the proposed improvements would benefit the much-hated automobile owners at the expense of land-owning, tax-paying farmers. The out-door advertising amendment was fought by means of bill-board advertising by the bill-board companies, maintaining that this proposal was an attack upon property rights. A considerable number of farmers, moreover, are glad to rent sides of their barns and out-buildings for advertising purposes, and this amendment might interfere with such a source of income. The proposal was lost by a small majority.

As regards the interest of the voters, measured by the proportion of the ordinary political vote which was cast on the amendments, there was no marked difference between country and city. In the twelve urban counties above mentioned, 67.5 per cent of the citizens who voted for governor in 1910 voted

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on the amendments; in thirty typical rural counties the corresponding percentage was 63. In the urban counties the percentage varied from 56.2 in Hamilton county (Cincinnati) to 80.6 in Cuyahoga county (Cleveland). In the rural counties the percentage ran as low as 36.7 in Adams county—of infamous memory in connection with the wholesale selling of votes[1]—and as high as 87.2 in Lake county. In view of the greater publicity given to the amendments in the cities, it is a noteworthy fact that the country districts were so interested in voting and so determined in their opposition.

The woman-suffrage amendment was the only measure which city and country united to defeat. In the following table the vote of the twelve urban counties is compared with that of the other counties.

	URBAN	RURAL	TOTAL
For woman suffrage.	103,906	145,514	249,420
Against woman suffrage	160,063	176,812	336,875
Majority against	56,157	31,298	87,455

Its rejection was doubtless ascribable to many causes. One cause, however, operated actively in the cities: it was asserted and widely believed that woman suffrage, if adopted, would be used to secure prohibition. Mr. Percy Andreae, leader of the "Liberal" forces of Ohio, declared: "Woman suffrage owes its defeat to the Anti-Saloon League, which made of it a wet and dry issue and thus alienated from it the sympathy of the large liberal forces of the state, which stand sternly opposed to prohibition, no matter what guise it may masquerade in."[2] The *Liberal Advocate*, official organ of the Ohio Liquor League,

[1] In the election of 1910, 6505 votes were cast in Adams county. On account of vote-selling in this election, 1679 or 26 per cent of the voters of the county were disfranchised. This partly explains the small vote cast in 1912.

[2] *Liberal Advocate*, September 11, 1912.

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said: "We can scarcely believe that brewery workers would favor a proposition which many thoughtful people believe would, if adopted, deprive them and their families of their bread and butter, by putting the industry in which they are employed out of existence."[1] The election results give further data: they show greater opposition to woman suffrage in the counties that were "wet" than in those that were "dry" in 1912.

	WET COUNTIES	DRY COUNTIES	TOTAL
For woman suffrage	7	17	24
Against woman suffrage	33	31	64

Cincinnati, the home of the "Liberal" forces, defeated woman suffrage by a vote of more than three to one.[2] Obviously, the liquor question, although apparently not decisive, had much to do with the defeat of woman suffrage.[3]

V

The remarkable presidential campaign in progress during the summer and autumn may well have had some influence upon the constitutional election. It is best, however, to be cautious in any attempt to distinguish party lines in the voting on the amendments, and to bear in mind that to thousands of voters the issues raised by the forty-two proposed constitutional changes probably seemed to bear no relation to the struggle among the three political parties. The following facts, however, may be stated, and the reader may draw his own inferences. In nine counties (Ashtabula, Fulton, Gallia, Geauga, Lake, Lorain, Medina, Summit and Trumbull) the Progressive candidates won, while in six other counties of importance (Cuyahoga, Lucas, Huron, Portage, Wood and Stark) Roosevelt and Garford,[4] though not successful, were defeated by

[1] *Liberal Advocate*, July 17, 1912.

[2] Hamilton County, in which Cincinnati is situated, gave 13,615 votes for and 42,669 votes against woman suffrage.

[3] *Cf.* map I.

[4] Progressive candidate for governor.

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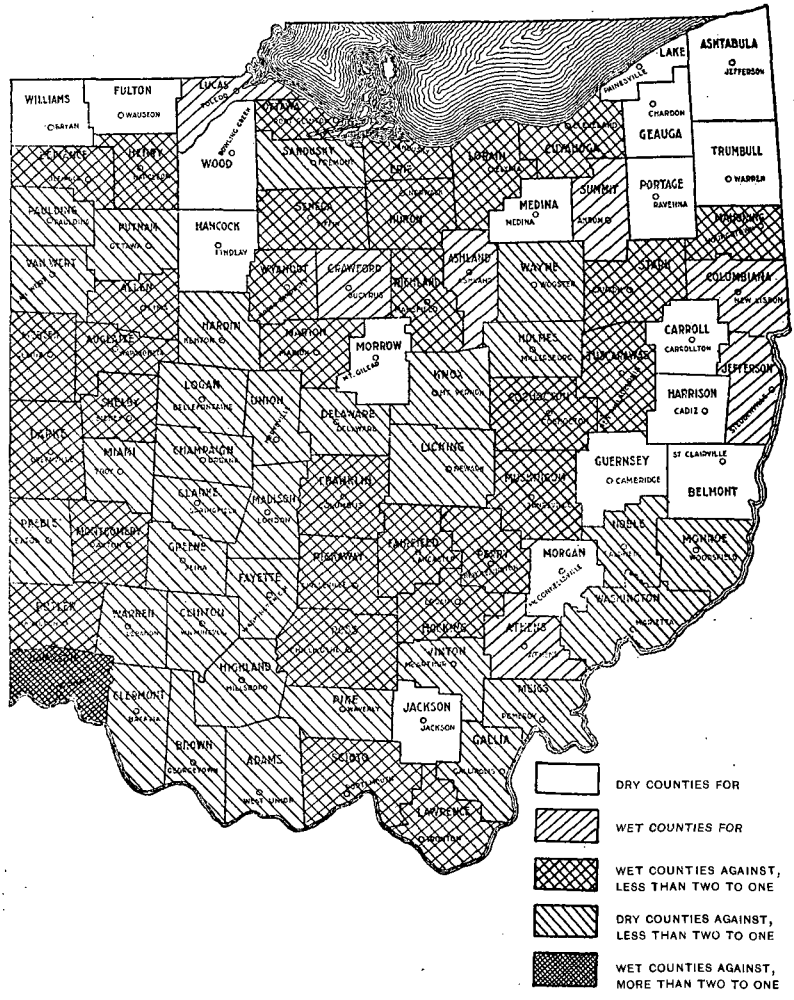
I. The Relation of the Liquor Question to the Vote on Woman Suffrage



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II. The Vote on Proposal No. 24: "Omitting the word 'white'"

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III. The Vote on Proposal No. 41: "Schedule of Amendments"

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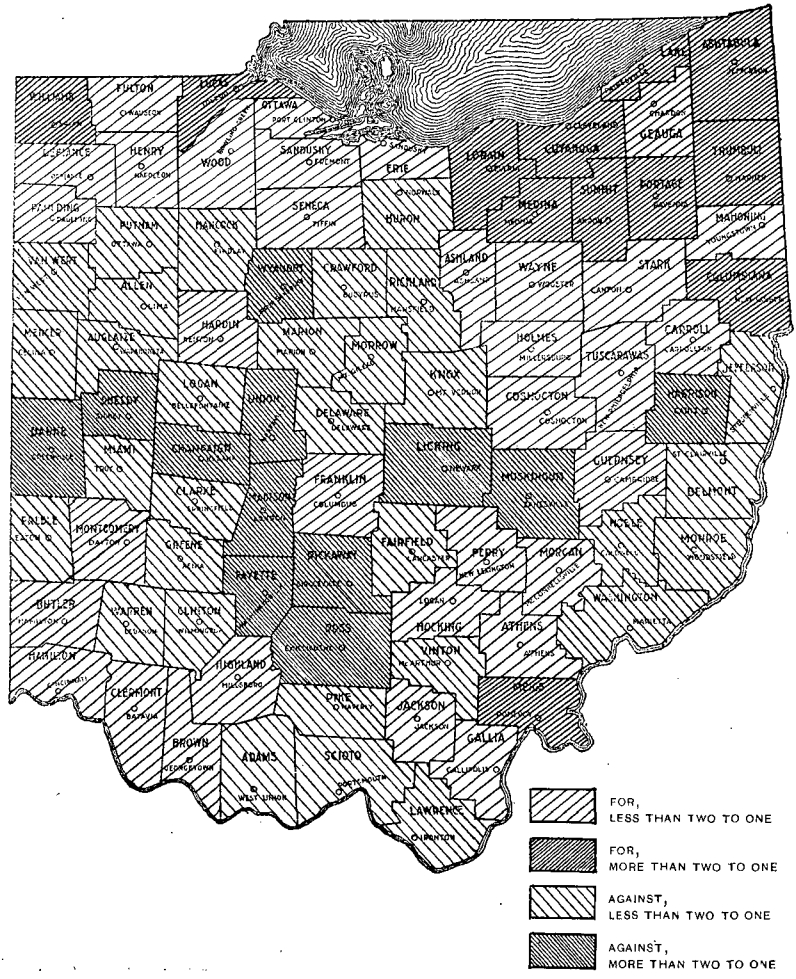
IV. The Vote on Proposal No. 6: "Initiative and Referendum"



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relatively small pluralities. These counties, with one exception (Gallia), are in the northern part of the state, where the constitutional amendments were carried by heavy majorities. On the other hand, in the sixteen counties in which either every amendment, or every amendment except the license proposal, was defeated, the Progressive candidates were overwhelmed. In no one of these counties did the Progressive party poll more than 23 per cent of the total vote; its average vote was 14.9 per cent, and in one county (Pickaway) it was 9 per cent. Evidently these remote rural communities were suspicious of new things, whether in state constitutions or in party platforms. Further than this it is hard to trace any connection between the two elections. The counties that supported President Taft (Athens, Clark, Clinton, Greene, Guernsey, Harrison, Jefferson, Lawrence, Meigs, Scioto, Warren and Madison) were for the most part rural; and while, on the whole, they were conservative as regards the amendments, they were not so invariably. They were certainly not the most conservative counties in that regard. Among the Wilson counties are found some that supported every amendment and others that rejected every amendment. On the whole, the connection between the constitutional election and the presidential campaign seems to have been rather slight.

VI

One of the most interesting questions raised by the referendum and one that it is well worth while to try to answer in studying the popular vote on the Ohio constitution of 1912, concerns the intelligence displayed in the acceptance or rejection of proposals. How clearly did the voters of Ohio understand what they were voting on? The task imposed on the citizen who wished to vote intelligently was no slight one. He must read the text of each amendment and some explanation or discussion of it. If he delayed his investigation until he reached the polls, he was confronted with thirty-six inches of fundamental political and economic problems. Could he vote upon them with coolness and wisdom then?

In the Oregon election held two months later, fourteen

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amendments to the constitution and twenty-three laws were submitted to the voters. The official ballot contained about 2400 words of printed matter, in the way of titles explanatory of the thirty-seven proposals. From it the voter was able to get a fairly clear idea of the purpose and character of the measures proposed. The ballot which the Ohio electors used in voting on forty-two constitutional changes contained 240 words. Proposal number 39, for example, read: "Methods of submitting amendments to the constitution." A similar proposal appeared on Oregon's official ballot in the following form: "For amendment of section 1 of article xvii of the constitution, so as to require for the adoption of any proposed constitutional amendment a majority of all the electors voting at such election instead of a majority of those voting on the amendment only." Obviously, the Ohio ballot was not designed to enlighten the voter. It was assumed that every citizen would inform himself concerning the forty-two proposals before coming to the polls. But a large percentage of the voters of Ohio waited for the ballot to give them the data necessary to form a judgment. The greatest blunder in conducting the revision of Ohio's constitution was made by those who determined the form of the constitutional ballot;[1] and to this blunder may be ascribed most of the ignorant voting in the election.

In the first place, the ballot titles of many amendments were quite misleading. The proposal to legalize a three-fourths majority verdict in civil suits was hidden under the title: "Reform in civil jury system." Voters not in favor of this measure might well complain that the convention, by labeling its proposal a "reform," obtained votes under false pretences. The same charge was brought, very justly, against the title: "Welfare of employees." This was obviously an appeal to altruism and the sense of social justice, but there was nothing on the ballot to indicate that the purpose of the amendment was to empower the legislature to fix a minimum wage, to determine the number of working-hours and, in general, to regulate the relations between workingmen and their employers.

[1] Committee on arrangement and phraseology. The work of this committee was, however, approved by the convention.

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In each of these instances the misleading title was adapted to secure votes for the amendment. In one case, however, the misleading title of a proposal seems to have been responsible for its defeat at the polls. This amendment read: "Women who are citizens may be appointed as notaries public, or as members of boards of, or to positions in, those departments and institutions established by the state or any political subdivision thereof, involving the interests or care of women or children or both." What possible objection could be urged against this proposal it is difficult to see. At any rate, none was urged even by those most strongly opposed to woman suffrage. On the ballot, however, this amendment was entitled: "Eligibility of women to certain offices." It was doubtless with visions of petticoated governors, judges and legislators that the voters of the state subjected this perfectly unobjectionable amendment to a stinging defeat.[1]

The ballot titles of other amendments did not convey information enough even to mislead. To such amendments the ingenious and wary voters gave such interpretations as pleased them. One amendment was lost because of such a "blind" title. In the constitution of 1851 are found the words: "Every male *white* citizen of the United States . . . shall be entitled to vote at all elections." Although the force of the word "white" had been destroyed by the fifteenth amendment to the United States Constitution, the clause had remained unaltered, an irritant to the negroes of the state. There could be no reasonable opposition to eliminating the objectionable word. On the ballot this amendment bore the title: "Omitting the word 'white.'" This phrase conveyed to the mind of many voters a hazy impression that the change proposed, whatever it might be, would probably be of advantage to negroes. For this reason, probably, every county on the Kentucky border and the city of Cincinnati voted against it.[2] The opposition to this amendment

[1] At the time of writing, the lower house of the Ohio legislature has just endorsed this same amendment; there is promise that it will pass the upper house and be ratified by the people.

[2] *Cf.* map II.

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was not confined, however, to any one locality. The country districts were more solidly against it than the cities, but even in the cities majorities which had carried other proposals over rural opposition shrank to narrow margins on this amendment. An election judge in one of the northern cities asserted that prominent business men, according to their own statements, had voted against the amendment because they "didn't want the 'niggers' to have any more rights than they have now."

There were, furthermore, several ballot titles which, while suggesting a general proposition, gave no definite information about it. The suspicion with which many voters viewed these uncertain quantities appears when we compare the vote on "Methods of submitting amendments to the constitution" with that on the "Initiative and referendum." The former was designed to make it easier to amend the constitution; in place of a majority of the votes cast at the election, it required only a majority of the votes cast on the amendment. Precisely the same provision was inserted in the initiative and referendum amendment, which provided for the popular initiation of constitutional amendments as well as of laws. It is clear that a person who understood both proposals and who voted for the initiative and referendum amendment could not consistently vote against this easier method of amending the constitution; and yet the returns indicate that of those who voted for the former measure about 25,000 failed to vote on the latter and more than 15,000 voted against it.[1]

Perhaps the most striking instance of unintelligent action is to be found in the vote on the schedule of amendments, which, strangely enough, was submitted as a separate proposition. It is inconceivable that any sane man who voted for even one amendment should desire the defeat of the schedule which was necessary to put that one amendment into effect. The voters of twenty-six counties, however, after having approved anywhere from one to twenty-five amendments, complacently

[1] No. 6. Initiative and referendum. Total vote 543,904
Majority for 81,280
No. 39. Amendments to constitution. Total vote 518,514
Majority for 25,140.

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rejected the schedule[1]; and there was not a county in which the opposition to the schedule was not greater than the opposition to some of the other amendments.[2] Obviously, to the minds of thousands of voters, the word "schedule" conveyed no idea, and they were taking no chances.

In this paper an attempt has been made to analyze the collective mind of the people of Ohio, as it was brought to bear upon political and economic problems of great importance. It has been shown that that mind was not adequately aroused nor sufficiently instructed; that only about half of those who ordinarily vote were interested in the constitutional changes and that thousands of those who did vote based their decisions on insufficient data. In so far as generalization is admissible on the basis of such a vote, it appears that the people of Ohio are conservative when asked to spend money or to share political privilege. They welcome changes, however, which give them new political rights or protect their economic interests or increase their control over their political servants. We have seen that the rural communities of the state are very conservative, while the cities welcome political and economic changes. Although the vote was taken in the heat of a political campaign, partisan politics seem to have exercised little influence upon the people's decisions upon constitutional questions. Finally, we have seen that the public mind will not voluntarily inform itself even upon matters of great importance. The average voter regards it as one of the prerogatives of citizenship to decide off-hand upon the questions which face him upon the referendum ballot. Most of his blunders are ascribable to ignorance, carelessness or indifference; they do not prove incapacity. These are among the lessons taught by the vote on the Ohio constitution of 1912.

ROBERT E. CUSHMAN.

OBERLIN, OHIO.

[1] *Cf.* Map III.

[2] In the state as a whole there were twenty-six amendments that received less opposition than did the schedule.

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THE PROPOSED SUGAR TARIFF

ONCE more Congress has undertaken the reform of the tariff, and again, as in 1894, the struggle centers upon sugar and wool. From certain points of view, the situation is remarkably similar to that which existed twenty years ago. Now, as then, the Democrats, after many successive defeats, have won an electoral campaign with the tariff as their main issue and have come into full control of the national legislative power. Once more they hold the presidency, a very large majority in the House and a narrow majority in the Senate; and again Democratic senators representing local interests, among which sugar is still prominent, threaten to defeat the schedules of the House bill. And in 1913, as in 1894, an income-tax measure is coupled with the tariff bill to offset the anticipated decline in customs receipts.

From other points of view, the parallel disappears. The political atmosphere has changed. Tendencies formerly regarded as radical have become merely progressive. The federal Constitution, long regarded as formally unchangeable except through civil war, has recently been amended in two important matters; and the amendments have a direct bearing upon the solutions of the pending problems of taxation. What is perhaps of still greater significance, the underlying economic conditions are greatly changed. The tendency toward large-scale organization and operation, which had only begun to manifest itself in 1894, has since become of controlling importance both in commerce and in industry. The population of the United States has increased forty per cent, and this increase has been in the urban and not in the agricultural population, which has remained practically stationary. The importance of our agricultural production and exports has declined, relatively at least, while that of our manufactured products and exports has greatly increased. If these movements continue we shall soon become importers rather than exporters of wheat and other agricultural products.

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The most disturbing of all the economic changes that have occurred since 1894 is the great rise in general prices—the cost of living. The great majority of the Democratic leaders and politicians have put the blame upon the tariff and the trusts, and, at bottom, upon the tariff as the mother of the trusts. A comparison of the prices, here and abroad, of protected and trust-made articles has seemed to show that part of the blame, at least, has been put where it belongs.

In view of the entire political situation and the platform pledges of the victorious party, it was to be expected that the present Congress would undertake a general revision of the tariff. It was to be expected, in particular, that an attack would be made upon the sugar duties; for sugar is not only one of the commonest of necessities, but it is also generally supposed to be one of the most completely controlled of the trust-made products. In the minds of most people, indeed, the sugar trust has come to be a typical representative of the nefarious methods of the trust octopus. It has engaged not only in rebating, forestalling and intimidating, but also in lobbying, both in national and state legislatures, and in distributing campaign funds to both parties. Its long-continued and malodorous custom-house frauds are not yet forgotten. From every point of view, the sugar schedule was bound to attract the attention of the tariff reformer.

The present line-up of sugar interests before the congressional committees is very different from that of 1894. In order to appreciate the significance of this change it is necessary to recall a little tariff history. Our sugar tariffs have been composed of two parts: first, a duty on the raw sugar and, second, an additional amount for the refiners' protection, usually called the refiners' differential. The old Dutch standard (color test) has been used in connection with the polariscope test in such a way as to heighten the advantage to refiners; in other words, the Dutch standard has been a sort of "joker" though it is now of comparatively little importance. Though the distinction is not scientifically exact, sugar below (darker than) no. 16 Dutch standard is considered raw sugar for tariff purposes. That of lighter color is considered refined and is

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subject to the refiners' differential, in addition to the duty it pays as raw sugar.

In the tariff law of 1883, the combined duties placed upon refined sugar were from $3.00 to $3.50 per 100 pounds. On account of the different classification obtaining at that time and the way in which the Dutch standard was handled in connection with the polariscope test, it is difficult, if not impossible, to calculate exactly the refiners' differential; but it probably ranged between $0.75 and $1.25 per 100 pounds. This estimate is probably too low rather than too high.

Between 1883 and the passage of the next tariff bill in 1890 there were several new developments. The treasury surplus became extremely troublesome to the friends of protection. If tariff rates were to be kept up, schemes had to be devised to spend the revenue. Then in 1887, the sugar trust was formed. The Brooklyn refinery of the four Oxnard brothers was taken into the trust. Two of the brothers remained in the old line of business; but two began the movement that later resulted in the development of the present domestic beet-sugar industry. Henry T. Oxnard (later head of the American Beet Sugar Company) appeared before the Ways and Means Committee in 1889 and asked for protection for this new industry. Instead of encouraging beet-sugar production indirectly, through a protective rate on raw sugar, the McKinley Bill of 1890 put raw sugar upon the free list and provided a bounty of two cents on every pound of sugar produced in the United States. This plan cut down the revenue and increased expenditure, thus doing double service in reducing the surplus. Refiners were protected by a differential of $0.50 per 100 pounds.

In 1894, the Democrats faced, not a surplus, but a deficit; hence, for fiscal reasons, it was proposed to put a 40 per cent *ad valorem* duty on all sugar. This meant protection to the Louisiana and Hawaii sugar producers and also to the then insignificant beet-sugar industry. But it meant no protection to the refiners. These interests, through their supporters in the Senate, secured the amendment of the House bill so as to restore their old differential of $0.50 per 100 pounds. Further changes have since been made. The Dingley Act of 1897

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gave 95° raw sugar a rate of $1.65 per 100 pounds and cut the refiners' differential to $0.125. The Payne-Aldrich Bill further reduced the refiners' differential to $0.075, where it stands to-day.[1] The concession to Cuba (December 27, 1903) of a twenty-per-cent reduction on her imports makes the duty $1.32 per 100 pounds upon her 95° sugar (which is the form in which most of it enters the United States).

The bill now pending proposes an immediate reduction of approximately twenty-five per cent of present duties and admittance of all sugar free of duty after May 1, 1916. To be more exact, this means a duty of $1.36 per 100 pounds upon foreign refined (100°, or pure sugar) and a duty of $1.23 upon 95° raws, without regard to color. Cuban 95° sugar would pay only $0.984; that is, it would have an advantage of $0.246 as compared with other foreign raw sugar in United States markets. The pending bill makes no mention of the Dutch standard nor of the present limitation upon the free entry of Philippine sugar (300,000 tons per year), nor does it make any provision for a refiners' differential.

In 1894 the chief lobbyist before Congress was the trust, and it was fighting, not primarily for a duty upon raws, but for the refiners' differential. To-day the refiners' differential is comparatively insignificant; the refiners have no hope of increasing it and little hope of maintaining it. So far as the recent records of congressional committees show,[2] and so far as the writer has been able to learn from other sources (including personal obser-

[1] The provisions of the Dingley Act were as follows. Sugars not above no. 16 Dutch standard and not above 75° polarization, $0.95. For every additional degree polarization, $0.035. Sugars above no. 16 Dutch standard and all refined, $1.95. This is equivalent to $1.65 upon 95° sugar. This is also equivalent to $1.825 on 100°, a pure refined sugar, if there were no differential of $0.125; that is, $1.825 plus $0.125 equals $1.95, the Dingley rate upon refined. The Payne-Aldrich Bill of 1909 changed the sugar rates only by making the rate on refined $1.90 instead of $1.95, that is, by cutting the refiners' differential from $0.125 to $0.075. The bill now pending before Congress proposes a duty of $0.71 upon all sugar not above 75° with an increase of $0.026 per 100 pounds for every additional degree shown by the polariscope test.

[2] *Cf.* Hearings of the Special Committee appointed to investigate the American Sugar Refining Company and others (Hardwick Committee Hearings), 62d Cong., 1st Sess. (1911) and 2d Sess. (1911–12).

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vation upon the ground), the trust is making no active direct resistance at present. How much it may be aiding the fight against lower duties through its beet-sugar interests is unknown.

About 1901 Mr. Havemeyer began to acquire controlling interests in the various beet-sugar companies and to erect additional plants. Some of this beet-sugar property he retained for himself and his family, but much of it was turned over to the trust. The present head of the trust, Mr. E. F. Atkins of Boston, has testified that in May, 1911, it owned $23,183,000 of the $56,883,617 total capital stock of eleven beet-sugar companies. On January 15, 1913, he testified that the trust then owned about $22,000,000 of such stock. This is about one-seventh of the present total capitalization of all beet-sugar plants in the United States. The control of this stock is so distributed, however, that the trust probably controls about a third of the domestic beet-sugar output. In recent years the management of the trust has been taken from New York and put into the hands of Boston men. They have testified that their present policy is not to acquire further beet-sugar interests but rather to dispose of what they have, in so far as they can do this advantageously. The situation is further complicated by the fact that the present head of the trust has Cuban sugar interests, although, according to his testimony, the trust itself has no such interests. Before Mr. Atkins became the head of the trust, he advocated reductions in the tariff, appearing before the Ways and Means Committee in support of such a policy. Later, apparently realizing his official duty to the trust, with its conflicting refining and beet-sugar interests, he became undecided and non-committal. During the present year he has testified that he and the board of directors of the trust are in favor of lower duties but opposed to free sugar. But his advocacy appears half-hearted and perfunctory.

It is worthy of note that, though the trust controlled more than nine-tenths of the refiners' output in the early nineties, it now refines only 38.5 per cent of the output, or, if we add one-third of the total beet-sugar output, 43.5 per cent. The so-called "independents" now turn out 46 per cent of the refined product. Despite their denials, most of these "independents"

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appear to have worked in harmony with the trust at various times in the past and do not appear to be fighting it at present. During the present year, so far as they have testified, they have favored lower duties in much the same way as has Mr. Atkins of the trust. An exception should be noted in the case of Mr. W. A. Jamison, representing Arbuckle Brothers, who has favored free sugar. The most important exception, however, is the Federal Sugar Refining Company of New York, of which Mr. Claus Spreckels is the head. It has been actively represented before recent congressional committees by Mr. Frank C. Lowry, head of its sales department. This is the interest that has led the fight for lower sugar duties during the past two or three years. The Federal is almost the only company that has fought the trust since the notable struggle of Arbuckle Brothers in 1899. Its fight, which has been somewhat like that of a small dog worrying a large one, has usually been carried on only when it had surplus stocks to sell. At other times it has been glad to take advantage of the trust's prices, or, as the current phrase puts it, to "stand under the trust's umbrella."

Mr. Lowry has conducted a very persistent and extended public campaign for lower duties. He has enlisted the support of grocers and canners. All the funds for this campaign, according to his testimony, have been furnished by Mr. Spreckels and his company. In the committee hearings, Mr. Lowry has shown himself an able advocate, discomfiting at times the most ardent of the sugar congressmen. The Federal Company favors lower duties because this would mean lower prices, a larger consumption and hence more business; also, because it would lessen competition with the beet-sugar interests, including those of the trust. It is not known whether Mr. Spreckels has, at present, important interests in Cuba or elsewhere that would further affect his desire for lower duties.

On the other side, also, in the line-up of those favoring high duties on sugar, there have been marked changes since 1894. Of course the Louisiana and Hawaiian interests are still active and will hold out so long as there is chance of success, for their very existence depends upon the issue. To their forces have been added those of Porto Rico. But among the interests re-

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sisting reductions by far the most active, best organized and most ably represented is the domestic beet-sugar industry. In 1894, it was insignificant and without influence. Since then its output has grown from 20,000 to 625,000 long tons of refined sugar per year. Instead of a half-dozen small factories in three states, it now has seventy-seven factories in sixteen states. It has not a little political influence, particularly in the Senate.

The United States Beet Sugar Industry is an association of the principal beet-sugar manufacturers of the United States. Mr. Henry T. Oxnard is its directing head and Mr. Truman G. Palmer its salaried representative with permanent headquarters in Washington. This interest works in season and out of season, between sessions as well as when Congress is assembled, when there is no probability of immediate tariff changes as well as when such changes are pending. Its campaigns have been conducted intelligently as well as persistently. The representatives of this interest have appealed, year after year, to the Trans-Mississippi and National Irrigation Congresses, to the chambers of commerce, to the press and to the public. Chief among its supporters have been the recent secretary of agriculture and the forces of his department. Few interests of similar size have secured, in recent years, more extensive issues of agricultural and congressional literature, printed and distributed at government expense, than has this beet-sugar association.

There have appeared before recent congressional committees a number of western farmers and representatives of western chambers of commerce, most of whom have testified in favor of protection to the beet-sugar industry. There is little doubt what interests induced them to take the long trip to Washington. On the other hand, there have been a few canners favoring lower duties. It goes without saying that the ordinary sugar consumer has no special lobbyists before Congress or its committees. These, then, are the main interests engaged in the struggle over the sugar rates.

The question in which most people are interested is, of course, what changes will be brought about if the proposed rates are enacted into law? How much will the cost of living

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be reduced? How much will the consumption of sugar be increased? How much will the revenues of the government be decreased? How will our various sources of sugar supply be affected and what, in particular, will be the reactions in Cuba, the Philippines, Porto Rico, Hawaii and in the cane- and beet-sugar sections of the United States?

It has been shown elsewhere[1] that in the United States sugar duties have almost always had a direct effect upon prices. Approximately the amount of the duty has usually been added to the price of sugar. Until comparatively recently, the New York wholesale price of refined sugar, per 100 pounds, has usually been made up as follows: the world (Hamburg) price of raws, plus commission, freight and insurance ($0.10), plus the United States duty on raws ($1.65 for 95° sugar), plus refining cost ($.50 to $.65), plus refiners' profit ($0.25 to $0.50). The duty on raw sugar has been the important cost-raising factor. The combination or competition among American refiners, together with their differential protection, has been the main factor affecting their addition to the price. For various reasons, also given elsewhere,[2] the wholesalers' and retailers' additions to the price have been extremely moderate, as compared with corresponding additions to the prices of most commodities, and prices throughout the country have usually been based upon New York prices plus cost of transportation from New York. In other words, middlemen's profits (except those of the refiners) and costs of transportation have been practically constant factors, irrespective of the tariff.

The effective protective tariff upon sugar has been modified of late years by the twenty-per-cent concession to Cuba (December 27, 1903) and the subsequent growth of her sugar output. The favored position of Hawaiian sugar had little effect upon United States prices; the Hawaiians received the entire benefit of the tariff rates, because their supply was small as compared with our needs and we still had to import large quantities of

[1] Blakey, The United States Beet Sugar Industry and the Tariff. Columbia University Studies in History, Economics and Public Law, no. 119. *Cf.* particularly ch. viii.

[2] *Ibid.*

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European full-dutied sugar. But in the case of Cuba the results have been very different. When she received her concession she was a much larger producer than Hawaii, and the doubling of her output, in addition to the increase in our free supplies from Porto Rico, Hawaii and our domestic beet-sugar industry, has made the Cuban supply more than sufficient to fill our needs for dutied sugar. At present Cuba is beginning to have an annual surplus to sell in other than our markets, that is, in less advantageous or non-favored markets. When the Cuban concession was first granted and while American refiners still had to buy a considerable amount of full-dutied European sugar, Cuban sellers were in a position to get most of the extra advantage of the concession, just as the Hawaiians had been. But now that they have a surplus to dispose of in European markets, they have lost their advantage. During the season when the Cubans sell most of their product, American buyers give the Cubans the alternative of selling here, with a tariff concession of $0.337 and a freight rate of $0.09, or of selling in England, with no concession and a delivery cost of $0.15. In other words, on most of her outputs Cuba now has to sacrifice all, or nearly all, of what would otherwise be an advantage of $0.40 per 100 pounds in our markets. Of course, this means lower prices for all sugar sold within the United States.

In view of these facts it is evident that at present the effective tariff, that is, the amount by which prices are raised on account of the tariff, is, approximately, the Cuban duty ($1.32 upon 95° sugar) plus some part of the Cuban concession (say $0.10) plus the refiners' differential protection ($0.075) and, possibly, plus some other margins (say ($0.07 as extra profits to the refiners on account of the Cuban concession plus some other small incidental factors). This makes the total effective tariff upon sugar a cent and a half to a cent and two-thirds per pound. Now the average *per capita* consumption of sugar in the United States for the past five years has been 81 pounds (in 1912, 81.3 pounds). This includes all that is consumed, directly or in the form of candy, canned goods *etc.* Eighty-one pounds at a cent and a half equals $1.215; at a cent and two-thirds it equals $1.35. Hence, if sugar were at once put on the

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free list and if prices fell by the exact amount of tariff reduction, the average consumer could not expect to have his cost of living directly reduced by more than $1.35 per annum.

What effect would the proposed changes have upon consumption? There is a surprisingly close relation between sugar prices and *per capita* consumption. This is more striking in Europe than in the United States, because of the greater variations found there in price, owing to great differences in the tariff and excise rates of the several countries. However, the correlation has been marked in the United States also. In the past thirty years our *per capita* consumption has increased about thirty pounds. All the marked increases have occurred in years of comparatively cheap sugar, the most notable increase following the adoption of the McKinley Bill, which put raw sugar on the free list. On the other hand, in almost every year in which there was a marked increase in sugar prices, *per capita* consumption remained stationary or decreased. In 1911, a year of high prices, our *per capita* consumption shrank two pounds; in 1912, when prices were low, it regained a similar amount. With free sugar, accordingly, we may expect our *per capita* consumption to increase faster; probably to one hundred pounds in a decade; possibly to 110 or 120 pounds in another decade or two; but we would then be getting very near what sugar authorities have called the "satiety point." During the past thirty years our total increase in consumption, due to both *per capita* consumption increase and population increase, has averaged 4.192 per cent a year. These facts in regard to consumption, modify, to some extent, what has been said relative to the reduction of the cost of living. They also modify some statements that will be made below regarding revenues and also regarding the probable effects of proposed tariff changes upon the various industries and countries now supplying the United States.

Fiscally, sugar is the most important commodity imported into the United States. It produces annually a revenue varying from $50,000,000 to $60,000,000, or one-sixth of our total customs receipts. Free sugar, now or after three years, of course means the total loss of this revenue; a twenty-five-per-

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cent reduction for a three-years interval means a loss of approximately one-fourth of this revenue.

The effects of the proposed duties upon our sources of sugar supply and particularly upon our domestic industries are more difficult to estimate. Cost figures are especially difficult to obtain and are likely to be inaccurate. In estimates of other economic and political factors affecting possible and probable expansion of the various industries errors are equally probable. Limits of space make it impossible even to mention many of the fundamental facts and details upon which the following estimates are based, and the necessary brevity and directness of the writer's statements may seem to imply a certainty which is hereby definitely disclaimed. All that he ventures to assert is that his statements are based upon fairly thorough investigations of the facts[1] that are available and that he believes them to be substantially correct.

As regards our sources of supply, our situation is very different from what it was in 1894 when the Democrats last revised the tariff.[2] The chief changes that have taken place are the growth of the domestic beet-sugar output and the increases in Cuban and Porto Rican production since the Spanish-Ameri-

[1] *Cf. op. cit. supra*, p. 65 *et seq.*

[2] Our sources of supply during 1912 (mainly from the crop of 1911) with the amount from each source (stated in long tons of 2240 pounds) and corresponding estimate of available supplies for 1913 (based on 1912 production) are as follows:

SOURCES	1912	1913
Louisiana and Texas	257,194	168,036
Domestic beet sugar	516,851	625,000
Maple and molasses sugar	15,155	15,000
Total continental	789,200	808,036
Hawaii (free)	526,281	500,000
Porto Rico (free)	285,556	340,000
Philippine Islands (free)	131,932	200,000
Cuba (80 per cent duty)	1,664,863	2,250,000
Other countries (full duty)	106,350	
Total insular and foreign	2,714,982	3,290,000
Total from all sources	3,504,182	4,098,036

The total world's production of 1912 (crop now on the market) is estimated at 18,060,036 long tons, of which 9,045,000 were beet sugar and 9,015,036 cane sugar.

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can War. As has been stated already, it is now no longer necessary for us to import any full-dutied sugar, except very small amounts, after the old crop is disposed of and before the new crop comes on. In fact we have a large surplus supply of favored sugar.

The average American beet-sugar factory can now produce refined sugar at from three to three and a half cents per pound. Some factories can do better, some not so well. The modern Cuban factories have an advantage of about a cent a pound. In the eastern United States markets, which supply the majority of our population, the Cuban factories have an advantage over most of our domestic beet-sugar factories in the matter of freights; at least they are at no disadvantage in this territory. In the western part of the United States the beet-sugar factories have a distinct advantage in this respect, but the freight charge probably does not average more than one-fourth to two-fifths of a cent per pound. This being the case, the average American beet-sugar factory can stand a reduction of about one-half of the present duties and still be upon fairly even terms with the Cuban factories, the chief competitors. Those beet-sugar factories which produce more economically and are situated more favorably than the average can stand a great reduction. Of those less favorably situated the reverse, of course, is true. But unless the domestic beet-sugar industry can respond rapidly through substantial improvements, or unless it has important indirect advantages to offset direct or absolute high cost, there is no probability that any large proportion of it can long survive if permanent free entry is given to Cuban sugar.

Cuba has exceptional advantages of soil and climate for sugar production, and only a small proportion of her sugar lands has as yet been put to use. The American exploitation of these resources on a large scale has only begun. If permanent free sugar were assured, modern mills, better systems of transportation and improved marketing facilities would be introduced and the market would be practically the only limit to her production.

The Cuban labor situation, it is true, is already presenting serious difficulties, and a proposition to permit Chinese immigration is now under consideration. Furthermore, there are

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some other difficulties, but none of them are more serious than have been overcome elsewhere. We may not look for a doubling of Cuba's present production over night; but it is significant that she has already doubled her output since the twenty-per-cent concession of December 27, 1903. Porto Rico, with free entry, has increased her output thirteenfold in thirteen years. Hawaii also has shown the remarkable possibilities of tropical cane-sugar production under American exploitation. Java under the Dutch, and Formosa under the Japanese tell the same story. It seems improbable that Cuba's wonderful resources would not respond in a similar manner to American and European capital and management.

The Louisiana cane-sugar industry is in a much worse position than is the domestic beet-sugar industry. In the first place, dangers of early frosts make it necessary to harvest the cane before it matures. This is a serious handicap. Furthermore, most of her sugar mills are small, old-fashioned and uneconomical. Almost equally antiquated is the agricultural side of her sugar industry. For decades, one might almost say for a century, Louisiana sugar production has remained almost stationary; it will have to be modernized in order to survive even if the tariff remains where it is. There are some indications of a movement in this direction. Mr. Henry T. Oxnard, of the American Beet Sugar Company, and others have recently erected a large modern plant. At the present time there is a movement on foot to combine the various Louisiana mills, to run the more efficient ones at full capacity and to shut down the rest, after the fashion of the original refiners' trust of 1887. If these plans are carried out, the Louisiana producers may be able to survive a slight reduction in the tariff; but it is not likely that they would be able even within three years, to meet a reduction of the duties to less than half the present rate, to say nothing of free sugar. In the matter of freight rates, Louisiana has a trifling advantage over Cuba in its own immediate section; but in the principal markets of the United States it has no advantage. Permanent free sugar within three years would almost certainly mean the annihiliation of most of the Louisiana cane-sugar industry.

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Hawaii would probably be the greatest sufferer if the proposed rates be adopted. She is essentially a one-crop, one-industry territory; and since the American reciprocity treaty of 1876 her resources have been exploited to the limit. Her secondary and various allied industries, her expensive irrigation systems, her land values and other values are based upon her sugar industry. Free sugar would mean a severe scaling of nearly all values, and the abandonment of many acres and plants. Sugar will probably continue to be produced under the combination of the best lands, irrigation systems and plants, but upon the basis of readjusted values. For Hawaii, therefore, free sugar probably means wholesale confiscation.

In Porto Rico, similar results will be produced; but in that island the disturbances will not be so severe or so widespread, for the development of sugar production is comparatively recent and the crops and industries are more varied than in Hawaii. The Philippine sugar industry is in a much more backward state of development. Philippine production, moreover, is not so dependent upon United States markets for an outlet; even now the Orient takes a considerable part of its exports. Furthermore, under the present law, the free entry of Philippine sugar is limited to three hundred thousand tons a year, the preference to be given to the smaller producers in case of greater imports into the United States. The Philippine production has not yet reached this amount, but the limitation is sufficient to prevent any rapid development of the wonderful natural resources of those islands. If it were not for Cuba's advantages, we might expect a great increase of output from the Philippines. As conditions are, however, it is not probable that the proposed changes in the tariff law will have any considerable immediate effects. If free sugar is maintained as a permanent policy great developments may result.

What would be the effect of the proposed rates upon Cuban and European competition, and what would be the reaction upon American interests? All the important European sugar-producing countries, except Russia, are subjected to the provisions of the Brussels Convention. This forbids bounties and limits their protective tariffs (surtaxes in addition to duties

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equivalent to their internal taxes upon home production) to forty-eight cents on raw and fifty-three cents on refined sugar per 100 pounds. Under this arrangement, practically every continental European state produces its own sugar but is prevented from exporting to any other state. The United Kingdom produces no raw sugar and grants no favors to the imports of any country, not even to those of its own colonies, many of which are sugar producers. As a consequence, it is the great world market for all non-favored exports and particularly for the surplus productions of the various continental European countries. Germany, Java, Cuba and all other producers sell upon even terms in this market.

Germany produces and exports more sugar and at a lower cost than any other European country. She depends largely upon the British market for the disposal of her surplus. Formerly we took a considerable part of her exports, but Cuba has crowded her out of our markets. Only recently has Cuba developed a surplus above the demands of the United States, hence only recently has she begun to invade European markets.

Cuba can produce sugar more cheaply than Germany, probably by approximately $0.25 per 100 pounds. Germany, however, has a slight advantage in the British market because of her proximity and because her trade is already established. A more important advantage possessed by Germany is her ability to store sugars and distribute them throughout the year as needed, instead of having to sell practically all her output during the milling season, when the market is most depressed, as Cuba must do. Furthermore, the European sugar crop is earlier and has the advantage of coming upon a strong market, while Cuban sugar comes on later when the market is well supplied from a number of sources. On the whole, these two large competitors seem to stand upon very even terms in the one great open sugar market of the world. The ultimate advantage will probably be with Cuba, because of her greater possibilities of improvement and growth. Hence, if the present United States sugar tariff remains in force, German and other European exporters may expect a gradual increase of competition from Cuba. But if our pending sugar tariff be adopted as a permanent policy, the

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movement of trade will probably be along other lines. As soon as sugar is admitted to the United States duty-free, Cuba will find it easier to meet all competitors in the United States market than to meet German competition in Great Britain. Her growing production will be able to supply the increasing consumption of the United States. Her sugar will gradually displace part of the supply now furnished by Hawaii, much, perhaps most, of that now furnished by the domestic beet-sugar industry, and practically all of Louisiana's present product. This development would not take place in a day. It would require several years, and in the meantime the European sugar industries would escape Cuban competition. Possibly, by the time it came, they would be able to meet tropical cane-sugar competition through further improvements in the production of beet-sugar; but that is very problematical. Of course they could retain their home markets through tariff legislation. In other words, the adoption or rejection of the pending bill as a permanent measure will probably go far to determine whether Cuban exports are first to displace continental exports in the British market or the American output in our domestic market.

It is perhaps desirable to note that the development of the beet-sugar industry in the United States may have certain desirable results, and its destruction, certain untoward consequences that are not apparent at first glance, partly because of the peculiar nature of the problems involved and partly because the question is not of immediate but of somewhat remote consequences. As the reader has already been reminded, the United States is gradually declining in relative importance as an exporter of wheat and other agricultural products and is advancing as an exporter of manufactured commodities. This movement is accompanied by a rapidly increasing urban population and an almost stationary rural population. We are in the first step of a transition from extensive to intensive agriculture, and the movement must continue. The beet-sugar industry has been and is one of the most important factors in developing and maintaining Europe's intensive agriculture. This fact, together with its remarkably rapid development in this country and the results it has already shown, can but suggest to the thoughtful

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student the possibility of its great indirect advantages and the growing importance of the rôle it may be able to play in our changing national economy. Here it is possible only to summarize, and that very briefly, facts and investigations stated more at length elsewhere. The existing beet-sugar industry in the United States has virtually been created since the passage of the Dingley Bill. On practically all sides it has shown reasonably rapid improvements, and it is susceptible of many more. For reasons peculiar to the industry, particularly in its agricultural phases, improvements cannot be effected so rapidly as in purely manufacturing industries. Beet culture results in greatly increased yields of other crops in rotation. It is adapted particularly to those parts of the United States to which corn is not adapted and to irrigated lands not justifying the expense of irrigation for extensive culture. Its fundamental drawback is the large amount of unskilled hand labor which it requires, and it is still problematical whether or not this serious difficulty can be fully offset if direct costs are to be compared with direct costs in Cuba. However, the possible improvements and the indirect benefits taken together may result in a net gain if time be given for their development and establishment. It is not probable that a sufficient development can take place within three years to maintain much of the present industry.

In conclusion it may be said that, if the pending sugar-tariff schedule is made a permanent policy, American consumers will receive the direct benefits of cheaper sugar and increased consumption. The serious loss to the treasury will have to be made good from other sources, but for the purpose of raising revenue a proper income tax is more equitable than a tariff upon sugar. The sea-coast refiners will be benefited through increased business and lessened competition from domestic producers. The trust, because of its diversity of interests, will both gain and lose. On the whole, it will probably lose. Foreign and native interests in Cuba will gain, those in Porto Rico will lose, those in the Philippines will not be much effected, at least immediately. Cuba's competition with Europe will be delayed, possibly prevented. Domestic beet-sugar interests will be severely injured. Louisiana producers will sustain even greater losses. Hawaii will suffer most of all.

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The present attempt at tariff revision is a move in the right direction. It is uneconomic to maintain indefinitely our present high duties upon sugar. If the domestic sugar industries, or other industries, cannot show net gains in a reasonable time, their subsidies should be withdrawn. If they do show such gains, they do not need subsidies. It is not a question of whether or not duties should be reduced, but a question of the rapidity of the reduction. The question of rapidity is important both economically and politically. Industries and values that are the growth of a generation, or even of half a generation, cannot have their foundations suddenly withdrawn without entailing important economic losses, not only to those most directly concerned but usually to many others. Pangs, it is true, are often necessary accompaniments of transition, even though the transition be to more economical fields of production. But in view of the facts that have been set forth above, it seems probable that the United States as a whole would suffer less and gain more in the long run if the proposed transition to free sugar were graduated by smaller annual reductions and if the length of period were doubled or trebled.

This is no more true of the economic phases of the question than it is of the political. The great popular demand to which the Democrats are responding in revising the tariff is that for the reduction of the cost of living. But, commendable as is their response, it is for the most part destined to prove ineffective so far as this particular result is concerned. As in the case of sugar, so in the case of most other things, tariff reduction can lower the *per capita* cost of living only by ridiculously small percentages. These reductions, together with their effects upon trust control in some cases, are not in themselves unimportant, but they are relatively insignificant as compared with the fifty per cent increase in commodity prices since 1897. Though this rise in general prices has been contemporaneous with the operation of the Dingley and Payne Acts, it has not been due fundamentally, as some seem to think, to fiscal policy. To be sure, the tariffs and trusts have had some effects, but the world's increased gold supply and increased credit stand in much closer relation to increased prices. These factors will not

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cease to operate, nor will their operation be appreciably offset, by any tariff changes.

The Democratic party and its tariff of 1894 fell upon evil times. Both were doomed to failure regardless of merits or demerits. They had to suffer for the sins of the silver inflationists of 1878 and 1890; for the over-rapid expansions of railroads and other enterprises in the eighties; for the credit inflation due to the large treasury surplus and for the reckless squandering of this surplus by the protectionists. Even the forces of nature combined to discomfit them. Though the panic was due in 1891 or 1892, unusually abundant crops at good prices delayed the crisis. It was not until the Democrats had come into power that the bubble was pricked and the crash came. Credit and prices took the courses usual in such panics. Nature then responded with unusually scanty crops. The average voter's psychology did not search very deeply for obscure economic forces in such times of stress. *Post hoc, ergo propter hoc.* The tariff of 1894, with its ill-fated income tax, was launched in a whirlpool that would have sunk any bill and any party.

Present conditions are very different from those of 1894, and we need expect no such fate for the pending tariff bill and its sponsors as overtook their predecessors. The economic and social wastes, including the pangs of transition, will probably be severe in the various sugar-producing fields most affected. However, they are probably greatly overestimated by the opponents of the measure, as they are underestimated by its proponents. It is important to lessen their severity as much as possible and to give due consideration to all interests involved; but only a conjuncture of events comparable to that which signalized the early nineties could bring about the dire consequences that followed the last Democratic régime.

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THE DISINTEGRATION OF THE TOBACCO COMBINATION

THE decisions rendered under the Sherman Act dealt at first with agreements between distinct and competing corporations or groups of corporations. In so far as these agreements contravened the prohibitions of the law, they were pronounced illegal. Other decisions followed that dealt with holding companies, that is, corporations organized for the purpose of acquiring and holding the stocks of competing economic units. The decision in the American Tobacco Company case went further: it held a corporate organization illegal, on the ground that it itself operated so large a proportion of a particular business as to make its existence a violation of the law. In other words: the first decisions did not affect the entity of any corporation; later decisions affected only such corporations as exerted a controlling influence over other previously competing corporations; the latest decisions hold a corporation to be illegal if its own directly conducted business is in restraint of trade.

In the Northern Securities case,[1] decided in 1904, the shareholders of two competing railway lines had surrendered their original stock for certificates of the holding company. The dissolution of the holding company left the corporate entity of the two separate railway companies intact. The original stocks of the two companies were redistributed among the holders of the Northern Securities certificates. It was, however, not feasible to redistribute the original stock to the original holders. Each holder of a certificate of the Northern Securities Company received stock in both railway companies.

The case of the Standard Oil Company[2] was in nearly all respects similar, except that a much larger number of separate concerns had been brought into the combination. Here also the control over the separate units was acquired and exercised

[1] 193 U. S. 197.

[2] 173 Fed. 177; 221 U. S. 1 (1911).

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through a holding company; and here also, when the combination was dissolved, each stockholder of the Standard Oil Company of New Jersey received an interest in each of the numerous subsidiary concerns. The inter-relation of these companies and the coördination of their functions were such that in many respects they formed a single economic group. When the holding company ceased to exist, there resulted no break in the coördinate activities of the separate corporate entities.

In the American Tobacco Company case,[1] as has already been stated, the interpretation of the Sherman Act was carried a step further. The Supreme Court held the combination "in itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately, to be in restraint of trade, and therefore illegal."[2] The court justified its sweeping condemnation of the entire combination on the ground that the very complexity of the situation required further relief than had been granted in previous cases. The situation could be met only by a reorganization of the entire structure of the combination.[3] The task of superintending and approving such a reorganization was left to the circuit court in which the government had originally instituted procedure.

These proceedings involved a number of distinctively economic problems; and for this reason the Department of Justice availed itself of the aid of economic experts from the Bureau of Corporations.

I

The American Tobacco Company was originally formed, in 1890, by combining five concerns whose collective output made up ninety per cent of the cigarette business of the country. Its monopolistic position in this branch of the tobacco industry was thus established at one stroke. Profits retained in the busi-

[1] 221 U. S. 106.

[2] Senate Document 40, 62d Congress, 1st Session, p. 37.

[3] For further discussion of the Standard Oil and American Tobacco Company cases, *cf.* H. R. Seager, "Recent Trust Decisions," POLITICAL SCIENCE QUARTERLY, vol. xxvi, pp. 581-614.

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ness and additional securities offered in exchange enabled the company to acquire within the next few years extensive interests in other branches of the industry. By the end of 1898 not only had it become the largest single factor in the little-cigar, plug and smoking tobacco branches, but, through a relentless competitive campaign, it had brought the entire industry into a condition of instability that facilitated a general consolidation movement.

The first and most important step in the movement for general consolidation was the formation of a new company controlled by the same interests—the Continental Tobacco Company. By the middle of the year 1899 this combination included practically every plug factory of any importance in the country. In 1899, also, the American Tobacco Company greatly increased its direct control by further purchases of independent concerns. Moreover, it adopted the policy, which was followed by the Continental as well, of acquiring controlling interests in other corporations through stock purchases. About the same time the tobacco combination, as it can now properly be called, carried on an aggressive competitive campaign against the Atlantic Snuff Company, a combination of strong Scotch snuff manufacturers, which had been organized independently in 1898. The result of this campaign was the formation, early in 1900, of the American Snuff Company, the American Tobacco Company interests receiving $10,000,000 of the $23,000,000 of stock issued. In 1901 the American and Continental companies were instrumental in the formation of the American Cigar Company, and early in the next year they coöperated in establishing the MacAndrews and Forbes licorice combination. A very large part of the domestic and Havana cigar business of the United States and Cuba came under the control of the combination in 1902 through the Havana Tobacco Company, organized for the purpose of securing this control. At the time when the tobacco combination was dissolved this company was directly controlled by the American Cigar Company.

After making an attempt to obtain control of the British tobacco industry, which was only partially successful because

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the manufacturers of that country formed a counter combination, the American combination was content to consolidate its foreign interests with the foreign interests of the British combination under the name of the British-American Tobacco Company. In this company the American interests received two-thirds of the outstanding stock. This consolidation operates in the world market outside of the United States and Great Britain and is rapidly extending its business.

In 1903 the American Cigar Company separated its stogie and cheroot business from its other branches and combined it with the United States Cigar Company, a stogie combination whose interests centered in Pittsburgh. The new combination operated under the name of the American Stogie Company of New Jersey.

In extending its sphere of activity, and particularly in every attempt to make itself the dominant factor in a new line, the methods pursued by the combination were substantially uniform. It first bought one or more concerns outright; next, the business thus acquired was utilized to start an aggressive trade war; and then this new business became the nucleus of a new consolidation, in which the combination obtained as its share a controlling portion of the stock. Throughout the period of consolidations, moreover, the combination continued to buy individual concerns outright, and by this means added almost continuously to its already extensive control. From 1903 to 1910 the combination controlled from 75 to 85 per cent of the total plug, fine-cut and smoking tobacco business of the country; 80 per cent of the cigarette business; 93 per cent of the little-cigar business; and 96 per cent of the snuff business. It also controlled about 15 per cent of the domestic cigar business and the larger part of the Cuban and Porto Rican cigar and cigarette production. The principal products contributory to tobacco manufacture were brought under almost equal control. The MacAndrews and Forbes Company was practically the only factor in the licorice paste industry of the United States; and the manufacture of tin foil, of cotton bags for packing smoking tobacco and of wooden boxes for the packing of plug and twist, and the making of nicotine products

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from stems and tobacco wastes, although not absolutely controlled, were nevertheless important features in the business of the combination. Through the ownership of a majority of the outstanding stock of the United Cigar Stores Company, the combination was an important factor in the retail tobacco business. All in all, the combination absorbed the business of not less than three hundred different concerns. In 1910 it held under its centralized control one hundred and forty-six different corporate entities operating in all parts of the world, of which sixty-six were doing business in the United States.

Throughout its history the combination was controlled by a small group of persons. From 1890 to 1898, this group consisted mainly of the early promoters who had consolidated the cigarette business; but, beginning with the organization of the Continental Company in 1898, it was enlarged to include a small number of powerful financiers. Before the organization of the Consolidated Tobacco Company in 1901, the central control had been exerted through common directorships, without the ownership of a majority of the voting stock. Through the Consolidated Tobacco Company, however, the outstanding voting stocks of the leading companies were gathered in, in exchange for bonds, and the Consolidated stock, the largest share of which was held by this small group of financiers, carried with it the control of the entire combination. In 1904, when the Consolidated was merged with the American and Continental companies, the Consolidated stock became the only outstanding voting stock of the new American Tobacco Company. The voting control, therefore, remained unchanged.

While in 1890 the capitalization of the American Tobacco Company had been only $25,000,000, in 1910 the net capital and surplus of the entire combination had increased to $350,000,000. The annual business in 1890 was less than $10,000,000; in 1910 it had increased to more than $200,000,000.

The structure of the combination during the period of its expansion had become increasingly complex. The American Tobacco Company, as the principal holding concern, not only held the stock of a very large number of concerns engaged either in the tobacco trade or in contributory lines of business,

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but also owned and operated a large number of plants for the manufacture of plug and smoking tobaccos, fine-cut, little cigars and cigarettes. Several of its chief subsidiaries, likewise, were themselves holding as well as manufacturing companies. In several instances, the stock of one concern was held by two or more other companies within the combination. As a result of repeated reorganizations, moreover, much of the business of the companies in the combination had been shifted about; so that at the time of the dissolution practically none of the more important concerns were carrying on the same business which they had originally conducted.

The complex structure of the combination and the numerous changes that had been made in the legal and commercial character of its parts made its dissolution a far more difficult problem than any which the court had heretofore been called upon to face in the enforcement of the Sherman Act. "The numerous direct acquisitions, consolidations and dissolutions of previously existing corporations, whose stock and properties had been acquired, so blended the combination into a new form as to make it impossible to effect a dissolution by the simple methods heretofore employed."[1] The difficulty was increased by the extent to which the business controlled by the combination has been systematized and coördinated. Direct control over the wide range of activities of the entire group of concerns included in the combination rested in one central authority, and integration and specialization did not stop at the barrier of corporate entity. To each plant, or to each subsidiary branch, was assigned the production of certain similiar goods. To carry out this policy, the manufacture of each brand was assigned to some specialized plant, irrespective of the titular ownership of either brand or plant. At the time of the dissolution scarcely one concern in the combination manufactured in its own plant its own brands exclusively. Every concern made brands owned by some other concern, or had made for it by some one of the other companies a brand or brands which it owned. Specialization and integration, moreover, was not con-

[1] Report of the Attorney-General of the United States, 1911, p. 4.

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fined to manufacture alone. One leaf department controlled the purchases of the entire organization, and its functions were subdivided and specialized to the extent that each separate division looked especially after the purchase and preparation of a particular type or grade of leaf. The Amsterdam Supply Company was a general wholesale purchasing agency for all of the concerns in the combination. In the selling department, groups of similar brands were handled by one selling division without regard to the direct ownership or place of manufacture. In a few instances, however, where special conditions prevailed, subsidiary companies were independent of this general scheme of coördination and were permitted to purchase their own leaf and to sell their own product.

II

When the court declared the tobacco combination illegal, it apparently recognized that the dissolution proceedings might bring in their wake serious disturbances to business. It expressed a desire that the reorganization be so conducted as to cause "as little public injury as possible, and that proper regard be had for the vast interests of private property involved."[1] The government, in its original petition, had asked that the business of the combination be thrown into the hands of a receiver, or, as an alternative, that a permanent injunction be issued against the continuing of the combination in the operation of interstate trade.[2] The plea for such an injunction was denied outright by the court. The receivership, however, was to be ordered if a readjustment of the business could not otherwise be brought about within a reasonable length of time. No specific and detailed remedy was outlined by the court lest "any remedy it might suggest should operate to injure the public and to perpetuate the wrong created."[3] It was left to those familiar with the business to work out a scheme of dissolution, subject, however, to the approval of the court of original jurisdiction. "Some plan or method of dissolution was to be

[1] Senate Document no. 40, 61st Congress, 1st Session, p. 27.

[2] United States *v.* American Tobacco Company and others, 164 Fed. 700.

[3] Senate Document no. 40, 61st Congress, 1st session, p. 26.

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worked out which should create out of the elements a new condition honestly in harmony with the law and not repugnant to it."[1]

The plans of disintegration and reorganization were actually evolved in a series of informal conferences, in which the leading officials and attorneys of the combination, the circuit judges, and the attorney general of the United States and his assistants participated. The Supreme Court had made it clear that the mere distribution to the stockholders of the stocks owned by the holding companies of the combination would not destroy the monopolistic conditions. "Under the existing form of organization," it said, "each of the separated units would continue to be in control of particular branches."[2] It was requisite, therefore, not only that the stock ownership of one part of the combination in another be relinquished wherever such control would continue these monopolistic advantages, but also that the constituent companies operating monopolistic branches be split up into smaller units.

One of the first and most formidable difficulties encountered in the work of disintegration was the presence within the combination of a variety of interests. The minority stockholders in the subsidiary concerns as well as the holders of the different classes of securities in the American Tobacco Company, had rights that must be considered. These security holders represented fundamentally divergent interests in the business. The holders of the four-per-cent and six-per-cent bonds of the American Tobacco Company had a claim upon the business entirely different from that of the holders of the common stock. The bondholders could claim, under any reasonable construction of the words of the court, a fair margin of safety of investment and the assurance of continued interest payments so long as their bonds were not redeemed and cancelled. Even the redemption and cancellation would have to be made at such a rate as not to cause a serious loss to these interests in the reinvestment of their funds. The common stockholders, of course, were not

[1] Senate Document no. 40, 61st Congress, 1st session, p. 27.

[2] United States *v.* American Tobacco Company, 221 U. S. 106, 185–186.

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entitled to equal or to any similar consideration in the distribution of the business, but they unquestionably had a valid and tangible interest in a very large surplus accumulated from the earnings of previous years. This surplus, in fact, offered a convenient starting point or basis in the practical working out of a plan of dissolution. It made possible an immediate distribution of the stock of a number of concerns controlled by the combination to the holders of the common stock of the American Tobacco Company, without destroying or injuring the property and business of these concerns or impairing the value of their underlying securities. The stocks thus distributed were those of the American Snuff Company, the British-American Tobacco Company, the MacAndrews and Forbes Company, the Conley Foil Company, the American Stogie Company, the R. J. Reynolds Tobacco Company, the Porto-Rican-American Tobacco Company and the United Cigar Stores Company. The combined value of the stocks of these companies stood on the books, at the end of 1910, at $35,011,865.03.

The desirability of the distribution of the stock of these concerns, from the point of view of the government, arose particularly from the fact that in each of them there was a considerable interest independent of the holdings of the twenty-nine individual defendants named in the government's petition as the controlling factors in the combination—an interest large enough to become an equal if not a dominant factor in the conduct of each separate business. These companies were, therefore, as a result of this distribution, practically freed from the dominant control of the big interests in the combination, provided that the other interests chose to use their newly acquired power of control.

Five companies controlled by the American, however, had been designated by the court as in themselves accessory combinations in restraint of trade, and were forced to submit to disintegration. In the case of four of these companies, instead of their stock, that of the companies into which they were divided was distributed to the American Tobacco Company's common stock holders. Thus, the American Snuff Company's business was divided into three sep-

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arate parts which were taken over by the American Snuff Company, the G. W. Helme Company and the Weyman and Bruton Company. The MacAndrews and Forbes Company, which had controlled the licorice business of the combination, was forced to share it with the J. S. Young Company. For the American Stogie Company a plan of dissolution was provided which allowed the Union-American Cigar Company, formerly a subsidiary of the New Jersey corporation, to continue in business, but with a greatly reduced capitalization and a reduced output. It disposed of a part of its stogie and cigar business to independent interests. The Conley Foil Company turned over a part of its foil business to the Johnston Tin Foil and Metal Company, which had previously been a subsidiary of the Conley concern but was now made independent. In the case of the fifth company, the American Cigar Company, the stock was not distributed. This concern, after a part of its business had been sold to the P. Lorillard and Hernscheim companies, remained under the control of the American. Had it been separated from the American, it would have been forced into bankruptcy, because it could not have met its maturing obligations to that and other concerns.

The Supreme Court had not designated the United Cigar Stores Company, the R. J. Reynolds Tobacco Company, the Porto-Rican-American Tobacco Company or the British-American Tobacco Company as in themselves monopolies in restraint of trade. These concerns, therefore, were not split into smaller units: they were passed over, as complete entities, to the common stock holders of The American Tobacco Company.

The twenty-nine individual defendants held 55.6 per cent of the common stock of the American Tobacco Company. Since in each of the companies whose stock was thus distributed there existed, as has already been stated, a considerable minority interest, and since this interest, together with the 44.4 per cent not owned by the twenty-nine individual defendants, was sufficient to place the voting control in the various businesses in new hands, it is evident that in this distribution the double purpose of the government, already indicated, could be accomplished. In the first place, it set the various companies free from the

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control of the American Tobacco Company, destroying the dominance previously exercised over them by a holding corporation; and, secondly, in theory at least, it made them independent of the twenty-nine individual defendants who were alleged to have controlled the combination.

Such a distribution, however, would not have served the purposes of the government or of the Sherman Act in the case of those companies whose entire outstanding stock was held in the treasury of the combination. Had their stock been distributed, the twenty-nine individual defendants, with their holding of nearly 56 per cent of the common stock of the American, would have retained an unimpaired control over each of the companies whose stock had been distributed. Such a result would have followed from the distribution of the stock of the Blackwell's Durham Tobacco Company, the F. F. Adams Tobacco Company and others, all of whose stock was held by the American Tobacco Company. The business of these two companies was retained by the American Tobacco Company as part of its allotment of the tobacco business.

The distribution of the stock holdings disposed of the miscellaneous business of the combination, stripping the American Tobacco Company of its so-called contributory concerns, and also of its interest in the southern plug business through the R. J. Reynolds Tobacco Company, in the snuff business through the American Snuff Company, and in the large export and foreign business controlled through the British-American Company. This part of the distribution was, however, only a preliminary step in the dissolution proceedings. It still left intact by far the larger part of the tobacco business heretofore controlled. As already stated, the combination had a monopolistic control of the manufacture of cigarettes, little cigars, plug, smoking tobacco and fine-cut, controlling in these branches from 80 to 85 per cent of the total output. The distribution of the stock holdings, moreover, had not as yet disposed of its interest in the cigar business, through the American Cigar Company. This concern, although it controlled only 13 per cent of the cigar business of the country, had been designated by the court as one of the accessories to the restraint. Practically the entire

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outstanding stock of the cigar company, however, was held by the American Tobacco Company, so that no minority interests were involved. The only remaining interests still directly concerned in the distribution were those whose holdings were limited to the securities of the American Tobacco Company proper. The bondholders and preferred stockholders of this company had not been directly concerned with the distribution of the surplus to the common stock holders, because even without it their holdings were sufficiently secured. In the disintegration of the direct tobacco business of the American, however, they were vitally concerned, since it would affect the security of the property and its earning capacity. Most of the twenty-nine individual defendants were interested in keeping control of the organization, since the effectiveness and profitableness of the business depended in a large degree upon their knowledge and experience. Finally, the all-overshadowing purpose of the government was the establishment of a proper basis for competitive conditions in each of the different branches, irrespective of the results to the holders of the common stock. The scheme as finally worked out was not unnaturally a compromise between these contending interests, each of which, to some extent, receded from its original position.

The simplest possible method of disintegration would have been to divide the entire tobacco business into a given number of units and to issue securities in place of those outstanding in such a proportion that each stockholder or bondholder should occupy exactly the same relative position in each of the new companies as he formerly held in the American Tobacco Company. If, for instance, companies A, B, and C were formed, the bonds and stocks of the American Tobacco Company would be exchanged for proportionate amounts of the bonds and stocks of each of these companies. After such a distribution, however, the twenty-nine defendants would have held exactly the same controlling position in each of the new companies that they held in the old company. Since it was the desire of the government to deprive the twenty-nine individual defendants, as far as possible, of their control of the business, this method of distribution was wholly unsatisfactory.

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A second apparently simple scheme would have been to sell to outsiders such a part of the business of the American Tobacco Company as would oust that company from its monopolistic position, the sale to be made either for cash or for securities. In the latter case, the American would have held these securities until sold or otherwise disposed of. To this plan also there were objections. If the American Tobacco Company received payment in cash, it would have at its disposal for an indefinite period of time a fund of very large proportions and would thus have a marked advantage over its rivals who had no such fund at their disposal. Moreover it was highly improbable that the requisite amount of capital could be secured to purchase the business thus alienated from the American Tobacco Company, under the condition imposed by the court, that this business was to be conducted in direct competition with the older company. If, on the other hand, the American Company received payment in securities of the competing companies, the situation would still be objectionable from the government's point of view. The American Tobacco Company could not well be forced to dispose of those securities until it should find a market capable of absorbing them and, at the same time, an opportunity to purchase a corresponding amount of its own outstanding securities for cancellation. For an indefinite period, therefore, the American would control, through its possession of these securities, the business nominally alienated.

In the Standard Oil dissolution every shareholder received the stock of all the subsidiaries on a *pro rata* basis. The court did not question this method. In an earlier case,[1] indeed, it declined to go into the problem of the individual ownership of the stock. In the decision rendered against the American Tobacco Company, however, the door was thrown open for a broader application of the law. By holding the combination illegal in all its parts, the Supreme Court gave the lower court a freer hand in dealing with individual rights of ownership than in the Northern Securities or Standard Oil cases.

In the plan finally worked out for the disintegration of the

[1] Northern Securities Company *v.* United States, 193 U. S. 197 (1904).

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American Tobacco Company's business, advantage was taken of this greater freedom. The business was divided into three parts, and the interests of the bondholders either were transferred to the two companies carved out of the American or were eliminated by the redemption of the bonds. The preferred stockholders, on the other hand, received equal voting powers, through a change in the by-laws, and were thus enabled to become the dominant factor in the American Tobacco Company after the disintegration. This regrouping of the security holders of the holding concern was accomplished in the following manner. The American Tobacco Company sold business and assets to the extent of $115,000,000 to two companies created for the purpose—the Liggett and Myers Tobacco Company and the P. Lorillard Company. In return, these two companies issued securities to the full extent of the value of the business transferred and turned them over to the American Tobacco Company. That company offered, in exchange for one-half of its outstanding six-per-cent bonds, seven-per-cent bonds of the two new concerns in the proportion of 58.65 per cent of the Liggett and Myers Company bonds and 41.35 per cent of the P. Lorillard Company bonds. The other half of its outstanding six-per-cent bonds it offered to buy at 120. Secondly, the company offered, in exchange for one-half of its four-per-cent bonds, five-per-cent bonds of the two new companies, in the same proportion, and undertook to redeem the other half for cash at 96 and accrued interest. By this exchange the entire bonded indebtedness of the American Tobacco Company was eliminated. To its preferred stockholders the American Tobacco Company offered seven-per-cent preferred stock of the two new companies to the extent of one-third of their holdings. The company also received common stock from the two new concerns to the extent of $36,651,075. This it offered to the holders of its own common stock at par for cash. This cash, with what it had on hand, was to be used for buying the bonds to be redeemed. The sale of this large amount of common stock to the common-stock holders of the American Company for cash made it certain that the money for the retirement of the bonds would

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be forthcoming as soon as needed. That in all probability would not have been the case if the stock had been offered in the open market. By offering to retire a part of the bonds at a relatively high rate of redemption, moreover, there was every assurance that the cash for this purpose would not remain indefinitely in the treasury of the company and thus give it an undue financial advantage over the new companies. Moreover, the common-stock holders were obliged to buy their stock in the new companies, and this offered a possibility of some of the twenty-nine individual defendants forfeiting that right or transferring it to others and thus allowing new factors to gain an entrance into the control of the new companies sooner than might have been expected under ordinary circumstances. The fact, on the other hand, that most of the defendants would continue to have an interest in the new companies made it much more likely that purchasers could be found outside the combination for such stock as the defendants were not willing or able to take.

The fact that the bondholders were thus dropped out of the American Tobacco Company, and that their interest was confined to the two new companies, made it necessary to use the greatest care in the transfer of assets. It would have been disastrous to the success of the dissolution scheme, had the American Company been able to keep the better part of the business and assets, transferring to the two new concerns those only that were of more doubtful value.

The device that aimed to secure a maximum degree of independence for the three units was the conferring upon the preferred stockholders, as already stated, of voting rights equal to those heretofore vested only in the holders of common stock. This of course had the immediate effect of greatly reducing in all three companies the voting power and, consequently, the control of the twenty-nine individual defendants. The preferred stock of the reorganized American Tobacco Company in fact exceeded in amount the outstanding common stock, and none of the individual defendants held large blocks of this preferred stock. It was not believed, however, that the voting rights conferred upon the holders of preferred stock would be so exercised as to bring about radical changes in the manage-

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ment of the companies. It was not expected that these holders would at once become active factors in the selection of directorates. They were presumed to be for the most part investors, who would not interfere with the management of the business as long as it was conducted on a profitable basis. It was, however, thought that, if new elements should seek to obtain control of any one of the concerns, they could use the preferred stock as a ready means to that end, since it can be bought at a much lower price than the common stock. As a matter of fact the ownership of both the preferred and common stock is gradually falling into distinct hands for each company, although the big common holdings have not as yet greatly changed.

III

The sale of a part of the business of the American Tobacco Company to two new concerns and the readjustment of securities between these concerns and the American Company disposed of the more important financial problems connected with the dissolution proceedings. There remained, however, the still more important consideration of the proper distribution of the different classes of product which the American had controlled. The court held that this entire business was conducted in violation of the Sherman Anti-Trust Act, basing its conclusion upon the data showing degree of control presented to the court by the government and originally established through the investigations of the Bureau of Corporations. According to these figures, the American Tobacco Company controlled at the time of its dissolution from 80 to 95 per cent of the cigarette, little-cigar, plug, twist, fine-cut and smoking-tobacco business of the country. The rather arbitrary assumption that the control of one-third of the business in any line does not constitute a monopolistic position—an assumption which was based principally upon discussions in the Senate and House as to what constitutes a monopoly in restraint of trade—had been accepted by the participants in the dissolution proceedings. Upon the basis of this assumption it was decided that the entire tobacco business controlled by the American Tobacco Company should be separated into such parts that in no line would any one concern control more than approximately one-third of the total.

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Looking for a moment at the status of the disintegrated combination as a whole, it will be found that the entire business has been separated into seventeen distinct and independent units. Not one of the seventeen companies has a direct stock interest in any of the others, and each is perpetually enjoined from having such an interest. In the following table these concerns have been arranged in the order of their financial importance. In the last column is indicated the proportion of voting stock in each concern controlled by the twenty-nine individual defendants.

DISTRIBUTION OF THE BUSINESS OF THE TOBACCO COMBINATION[1]

COMPANY.	NATURE OF BUSINESS	CAPITAL AND SURPLUS	DEFENDANTS' PERCENTAGE OF CONTROL
American	Cigars, cigarettes, little cigars, plug, smoking, scrap and fine-cut.	$138,611,344	35.16
Liggett and Myers	Cigarettes, little cigars, plug, smoking, scrap and fine-cut.	67,447,499	40.76
P. Lorillard	Cigars, cigarettes, little cigars, plug, smoking, scrap and fine-cut.	47,552,501	40.76
British-American	Foreign.	36,000,000	34.66
American Snuff	Snuff.	17,535,938	38.65
R. J. Reynolds.	Flat plug and smoking	9,541,322	37.53
United Cigar Stores.	Retail cigar and tobacco.	9,000,000	37.65
Bruton and Weyman	Snuff.	8,000,000	28.49
G. W. Helme	Snuff.	8,000,000	28.49
MacAndrews and Forbes.	Licorice manufacture	5,714,148	39.77
Porto-Rican-American.	Cigars and cigarettes	2,357,562	45.31
J. S. Young	Licorice manufacture	2,000,000	43.87
Union-American	Cigars, stogies and cheroots	2,517,740	24.65
Conley Foil	Tin-foil manufacture	1,215,321	33 88
R. P. Richardson, Jr. and Co.	Smoking tobacco.	500,000	none
Hernsheim	Cigars		none
Johnston Tin Foil and Metal.	Tin-foil manufacture	400,000	33.73
Total		$356,393,375	

[1] The figures in the table are based on data for 1910. The table includes two companies that were not originally planned for. Just prior to the submission of the completed plans to the court, R. P. Richardson, Jr. and Company was freed from the control of the combination after a protracted struggle in the courts. The Hernsheim Company, of New Orleans, is a former branch of the American Cigar Company, but is now separated from it and is operated by a former director of that concern.

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Of the total assets of the seventeen companies, $356,393,375, the American Tobacco Company retained $138,611,344, or 39 per cent; Liggett and Meyers and the P. Lorillard Company, together, started with assets amounting to $115,000,000, or somewhat more than 32 per cent. The three companies together had thus assets of $254,000,000, or approximately seven tenths of the total. However, unlike most of the remaining companies, they are not confined to single lines of activity, but will each carry on a varied business. A further tenth of the total assets represents investment in foreign business; another tenth, investment in snuff business; and the remaining tenth includes the assets of ten concerns engaged mainly in contributory lines. Six of the seventeen companies are engaged in the smoking tobacco business, five in plug business, five in the cigar business, five in the cigarette business, three in the snuff business, three in the little-cigar business, two in the licorice business, two in the tin-foil business, and one company in the retail sale of tobacco products.

As has already been stated, the distribution of the tobacco business among the various companies was so planned as not to give any one concern more than approximately one-third of the total output of the country for any particular branch. In two branches, however, fine-cut and little cigars, the extraordinary development of single brands made it necessary to assign more than one-third of the total to a company. The distribution of the various branches of the tobacco business among the different concerns and the percentage of independent business are shown on the basis of data for the year 1910 in the following table. Although the American Tobacco Company retains a much larger proportion of the assets than any other single concern, the table shows that it does not occupy an equally prominent position in all the different branches of the industry. In fact, it retains a smaller proportion of the fine-cut and little-cigar business than either of the other two concerns, and it controls less of the plug business of the country than the Liggett and Myers Tobacco Company. Only in the smoking and cigarette lines does its proportion of the total exceed that of either of the other two companies. The R. J. Reynolds Tobacco Company,

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DISTRIBUTION OF THE DIFFERENT BRANCHES OF THE TOBACCO BUSINESS

COMPANY	CIGARETTES	SMOKING	PLUG	FINE-CUT	SNUFF	CIGARS	LITTLE CIGARS
American	37.11	33.08	25.32	9.94	. .	6.06	15.43
Liggett and Myers	27.82	20.05	33.83	41.61	. .	. .	43.78
P. Lorillard	15.27	22.82	3.73	27.80	. .	5.72	33.84
R. J. Reynolds	. .	2.66	18.07	. .	. .	. .	. .
Union-American	. .	. .	. .	. .	. .	1.58	. .
G. W. Helme	. .	. .	. .	. .	40.88	. .	. .
American Snuff	. .	. .	. .	. .	32.05	. .	. .
Bruton and Weyman	. .	. .	. .	. .	29.25	. .	. .
Independent business	19.80	21.39	19.05	20.65	7.82	86.64	6.95

which had less than three per cent of the total assets, has nearly as large a plug business as that assigned to the American. The Lorillard concern, with the smallest investment of the three large companies, falls somewhat behind the other two in the percentage of the above lines of business controlled. The American Snuff Company, although its assets greatly exceed those of the other two companies producing snuff, retains less than one-third of the total snuff business. In the snuff and little-cigar business, the proportion of the trade not controlled by the combination is exceedingly small. On the other hand, the cigar business of the country not controlled by the combination amounts to not less than 87 per cent of the total.

In the distribution of the tobacco business among the different concerns, it was necessary to take into account not only the output of individual brands but also the location of their manufacture, their value and their earning power. The brand is the unit in the tobacco industry, and it cannot be assigned to two or more companies, although in output it may reach a total of very large proportions. It had been in part the policy of the combination to concentrate its efforts in the different branches upon comparatively few brands, with the result that in each line there are brands which make up a very considerable proportion of the total output. In the little-cigar branch of the business, a single brand represents practically 44 per cent of the entire production of the country. On account of this extraordinary development of single brands it was not

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in all instances possible to divide the business with a strict adherence to the one-third principle. Of more importance even than the extraordinary development of single brands was the degree of concentration in their manufacture. The combination had not only developed the output of single brands but had concentrated the manufacture of groups of similar brands in the different factories it controlled. This concentration had been carried to such an extent that each plant became a unit for the production of a special type of goods. Since it was considered advisable, for economic reasons, not to disturb these conditions any more than was absolutely necessary, the plant instead of the brand became the real basis of distribution, and in not a few instances the business assigned to one or the other of the companies really represented the operations of a single plant. Thus, the entire plug business taken over by the Liggett and Myers Company and the cigarette business taken over by the Lorillard Company were the output of single plants. Again, as a result of the assignment of the manufacture of particular brands to particular plants, some plants were limited to the production of brands which yielded small profits while others produced brands which returned a very high rate of profit. These disturbing factors made it necessary to select for each of the companies in each of the different branches a group of plants representing approximately the same rate of earning power *i. e.* yielding profits proportionate in each case to the tangible assets. Moreover, each was entitled to brands of which the earning power was likely to continue.

It is evident that an equitable distribution of assets alone would not have solved the problem without an equitable distribution of brands. It is also evident that brands could have been so distributed as to give one or another of the companies an unfair advantage in the future. How to devise a distribution that would assure to each of the companies continued competitive ability presented the most difficult economic problem, and it was to secure competent supervision of its solution that the Department of Justice availed itself of the assistance of economic experts from the Bureau of Corporations.

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IV

The chief problems that presented themselves in the disintegration and reorganization of the tobacco combination were: first, the elimination, so far as practicable, of the twenty-nine individual defendants from the collective control of the units into which the business was separated; and, second, the distribution of the business of the combination in such a way as to make the part taken over by each concern non-monopolistic. The first problem was disposed of, in part, by distributing stockholdings, by conferring voting rights upon the holders of preferred stock, and by compelling the common-stock holders of the American to purchase for cash the common stock that they were to hold in the other two concerns. In dealing with the second problem the decree limited each concern to a non-monopolistic percentage of the business which it was to conduct; but the previous concentration of manufacture, the extraordinary development of single brands and the differences in their profitableness made this distribution the most difficult part of the problem.

The disintegration plan that was worked out has been criticised on several grounds: first, because of the continued ownership and control of a part of the voting stock of the different companies by the twenty-nine individual defendants; second, because of the excessive size of some of the companies carved out of the combination; third, because the brands in the different branches of the business were not properly distributed.

It has been shown that the twenty-nine individual defendants who were dominant in the old combination are represented through the ownership of voting stock in all but two of the companies created. Prior to the disintegration of the American Tobacco Company they held, approximately, 55.6 per cent of its stock; but after its disintegration they held only from 25 to 45 per cent of the voting stock of each of fifteen of the seventeen concerns. How far this ownership of the voting stock actually influences the operations of the new companies can, of course, be only surmised. It is a fact that most of the defendants who were active in the management of particular branches of the business before the dissolution are still active in these same branches, but their activities are now confined to

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one or another of the individual companies. In those subsidiary concerns whose stock was distributed outright, and in which a former minority interest had already been in charge of the business, as in the case of the R. J. Reynolds Tobacco Company, the actual management remained, of course, unchanged, but the former minority interests are now the dominant factors in the business.

In earlier decisions, the Supreme Court had pointed out that it was not illegal for individuals to acquire and hold stock in competing companies even though such holdings tended to vest control in the same individuals. Under these decisions, individuals who hold stock in several concerns cannot easily be dislodged from their position. In the tobacco dissolution, the right of the individual defendants to own stock in each of the new concerns was not denied; it was the degree of control which their ownership of the stock carried with it that was attacked. Ownership of stock in the several concerns formed from the combination cannot in itself be considered as *prima facie* evidence of collusion or of conspiracy in restraint of trade or of continued monopolization. The wrongful intent has first to be established. It cannot even be assumed that the continuance by the separate units of a similar policy in the operation of their businesses is evidence of collusion or of continued monopolization. It may, in fact, be expected that the conduct of the business of the different concerns, even without any secret understandings, will remain substantially unchanged in the immediate future. The presence in the different businesses of those individuals who were active in the combination, and who were the main factors in producing that rather high degree of efficiency which the combination displayed, must constitute a potent check to the immediate inauguration of new policies. The dissolution proceedings, moreover, did not eliminate the managers and directors of different branches of the old business from the new. From a business point of view, their removal would have been folly; and legally it was impossible on account of their pecuniary interests in the separate concerns. Undoubtedly a very large part of the value of each branch of the business as a going concern is

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dependent for the immediate future upon the continued services of some of the defendants. Sooner or later, of course, new men with new affiliations and new ideas must be drawn into the different companies, and these will look upon the particular concerns with which they are connected from a new point of view, regarding them as independent units rather than as parts of an ideal whole. These changes are even now taking place; and the suspicions that at first swayed the public mind, regarding possible illegal relations of the defendants and, through them, of the businesses to each other, are dying out.

Continued repression of competition has at least been made difficult. Open common action has been made practically impossible by a number of restrictions which, through the decree, have been imposed upon the present and future action of the different companies and their stockholders. These restrictions are intended to assure continued independence of action and to establish the competitive conditions which it was the purpose of the government to create. The decree contains the following provisions: (1) No two concerns shall have any common directorships for a period of five years. (2) No principal or accessory company shall hold stock in another principal or accessory company. (3) None of the companies shall have a buying or selling agency in common with any other company. (4) There shall be no common stock ownership of outside concerns. (5) The different companies shall purchase no stock or property from each other. (6) All agreements and covenants with companies or individuals are rescinded, and none can be made in the future. (7) No arrangements shall be made or agreements entered into among the different companies in relation to (*a*) control or management, (*b*) prices of product or of leaf, (*c*) apportionment of business or (*d*) jobbers' agreements. (8) There shall be no common officers for the different concerns. (9) There shall be no common clerical organization for two or more of the companies. (10) The twenty-nine individual defendants shall not increase their individual holdings for a period of three years (except as later explained). (11) No voting trust or similar device shall be created.

On their face several of the prohibitions imposed upon the

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new companies seem needlessly severe. Financial relations among large companies are not uncommon, nor is it an infrequent practice to employ common buying or selling agencies. In reply to this criticism it may be said, however, that, where combination has so recently existed, the tendency toward common action is likely to be especially strong; and it must also be borne in mind that some of the separate concerns still conduct a third of the business of the country in their respective branches, so that, in not a few instances, concerted action of two concerns would suffice to reëstablish monopolistic conditions. The presence of such possibilities justifies the rigid inhibitions contained in the decree. The forbidding of a voting trust or of a holding company or of any other device by which the twenty-nine individual defendants might reëstablish control over two or more companies, was suggested by the consideration of past conditions. Such devices seem to have been considered necessary in every case in which it has been attempted to carry out the common purposes of a single group of stockholders in two or more companies. If in the past it has not been possible to maintain a common control over a group of concerns without a voting trust or other similar device, the prohibition of any such arrangement may be expected to weaken and eventually destroy any tendency to common control by the defendants.

A special provision in the decree permits any one of the twenty-nine individual defendants to buy stock from another defendant, if his holdings in one company are reduced thereby to the extent to which they are increased in the other. This is intended to facilitate such a regrouping of the defendants that sooner or later each of the concerns may have a separate controlling interest. The decree might have gone further and permitted the purchase by a defendant in the open market of stock in the one concern in which he is interested as director or officer. This would have hastened distinct and separate control. The separation of the central offices of the different concerns (which in most instances are now located in different cities) also tends to impede concerted action by the defendants and to promote the final separation of the groups.

In considering the position of the holders of common stock

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in the different groups, all the barriers that have been erected against common action must be taken into account. It is not unreasonable to suppose that, rather than come in conflict with the numerous prohibitions of the decree, those large financial interests which heretofore have been the prominent factors in the control of the entire combination will either retire to the position of disinterested investors in the different companies or, in the course of time, disappear entirely.

The second criticism, that the size of the three companies which are to carry on the tobacco business of the former American is excessive, comes almost entirely from independent tobacco interests. In the hearing before the court the representatives of these interests asked that the companies to be formed should not be of greater size than the independent concerns with which they would compete. It was also asked that none of the companies which were to be created from the combination should be permitted to receive business covering two or more separate branches of the industry. To comply with these requests, it would have been necessary to separate the combination into from fifty to seventy-five units. From what has already been said in regard to the enormous development of particular brands, it will be seen that such a distribution would not have produced the desired results. Such a distribution, moreover, would have broken up the business carried on in each separate plant; and this would have destroyed a considerable part of the economies that had resulted from the combination. The bondholders, too, would have been unwilling to exchange the securities of the American for those of fifty or seventy-five small companies. The decision rendered by the Supreme Court required no such extreme dismemberment of the combination. The court had declared that the violation of the statute was not found in the vast accumulation of property nor in the uniting of different branches of the business under a single control. The Sherman Act does not condemn large aggregations of capital nor big plants nor the extension of a broad field. To meet the legal requirements, one point alone had to be considered: whether any of the new concerns would occupy such position in any single branch of the industry as to

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constitute it, in itself, a monopoly in restraint of trade. That the new status created by the decree is not a hopeless one for independent interests in the industry is indicated by the recent activity among independent tobacco manufacturers and especially by the organization of the new Tobacco Products Company.

It does not necessarily follow, indeed, that the disintegration of the combination could not have been carried somewhat further. It is not certain that the formation of only three principal companies—or four including the R. J. Reynolds concern—to conduct the tobacco business of the American was essential to a successful and equitable scheme of segregation. If time had permitted a more careful examination of the elements of safety of investment, of the problems of economy, manufacture and distribution, of the possibility of removing brands from one plant to another without disturbing the status of the employees, the values of the different properties, the security of brand values and the preservation of legitimate advantages, it might have been possible to devise a distribution that would have been more acceptable to the outside interests. As already stated, however, the position taken by the government and accepted by the circuit court—that the possession of one-third of the business in any line does not constitute a monopolistic control—was adhered to as far as possible, and the distribution was carried out on this basis. Whether it should have been the effort of the government so to disintegrate the combination as to give practically all the elements in the industry an even start is a matter of opinion; everything depends upon the point of view taken of the purpose of the government in enforcing the Sherman Act. From an economic point of view, a distribution on this basis could scarcely be defended as desirable, even if it had been feasible.

Criticism of the distribution adopted was directed especially at the large business left in the hands of the American Tobacco Company, as compared with that assigned to the Liggett and Meyers and the P. Lorillard concerns. It was claimed that the American retained a virtually monopolistic control. While it is true that the total reported assets of the American (computed on the basis of 1910 data) were greatly

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in excess of the assets of either of the two other concerns—$138,611,344 compared with $67,447,499 and $47,552,501 respectively—yet the actual tangible assets in the direct tobacco business of the American Tobacco Company (excluding good will and stock holdings of the American Cigar and other concerns, the stock of most of which has already been disposed of for the benefit of the common stockholders) is only ten per cent larger than the similar assets of the Liggett and Meyers Company and only eighteen per cent larger than those of the P. Lorillard Company. It has already been pointed out that the proportion of the direct business which the American controls in the separate branches is not much greater than that controlled by either of the two other concerns, although the activity of the American is extended over a somewhat broader field.[1] A material diminution of the size of the American Tobacco Company would have necessitated, therefore, an almost equal diminution of the direct business of the two other companies, if the competitive ability of each against the other was to be maintained. Moreover, any very considerable decrease in the size of the American would have increased the difficulty of so adjusting the finances as not to give a stronger position to the twenty-nine individual defendants. It would certainly have made it necessary to withdraw from the public, not only the bonds of the American, but also a part of the preferred stocks. This would have increased the proportion of the outstanding common stock of the American Tobacco Company, thus giving the individual defendants a larger control over its business. The earnings statements of the different companies at the end of the first year of independent operation do not indicate that the American Company has retained undue advantages.

The third general ground of criticism was found in the distribution of the brands in the different branches. The business, as already indicated, was actually distributed by plants rather than by individual brands, because groups of brands similar in nature were manufactured in the same plant. The distribution, therefore, was not perfect from the point of view of brand

[1] *Cf. supra*, p. 266.

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competition. The method of distribution chosen undoubtedly resulted in the maintenance of some more or less non-competitive groups. The peculiar character of the tobacco business, however, and the fact that the brand has something of the nature of a proprietary article made a distribution of the entire business along strictly competitive lines an impossibility. Particular brands are in themselves more or less non-competitive, and they not infrequently occupy so prominent a position in a particular branch of the business that the entire branch is practically non-competitive. Within each of the larger divisions of the business, moreover, there are sharply defined groups of brands which, strictly considered, are not competitive. Thus, in the cigarette branch Turkish and domestic brands of cigarettes do not ordinarily compete. Even within the Turkish branch of the business, certain groups of brands do not compete with the brands of other groups. In the plug, smoking, fine-cut and snuff branches, similar groups of brands can be found. In the reorganization of the tobacco business, it would doubtless have been possible to make the business of the three large companies more competitive if the distribution had been made by brands rather than by plants, but it is evident that the business itself offers insuperable obstacles to the creation of perfect competitive conditions under any method of distribution. It must be considered, moreover, that the tobacco industry is not in a static condition, but is constantly changing with the development of new brands. The lack of a perfect distribution at the time of dissolution, therefore, is not of prime importance so long as public demands are changing and so long as any distribution must be subject to these changing conditions.

Most of the criticisms of the plan of disintegration came from parties who had either a direct or an indirect interest at stake; and in most cases they revealed a somewhat narrow point of view. They show clearly, however, that a careful consideration of the economic problems involved is requisite in the enforcement of anti-trust legislation. Legal knowledge must be supplemented by a clear appreciation of the economic and financial problems involved. Only in the light of such combined knowledge is it possible to pursue a policy of successful disintegration

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of great combinations which shall be in harmony with the best interest of all parties involved.

Finally, some consideration should be given to a general criticism—the failure of dissolution proceedings under the Sherman law to give any real relief against alleged monopolistic conditions. If, under the previous régime of monopolistic control, prices were excessive, it is argued that they should fall under the new régime, if competition has indeed been reëstablished. Thus far, in the tobacco industry, the most noticeable result has been a considerable increase in competitive advertising. There has been no reduction of prices. It is not probable that any such reductions will follow, because in any industry whose products partake of the nature of proprietary articles —and tobacco brands, as already stated, may be classed among such articles—increased competition tends rather to increase advertising and selling expenses than to lower the price of the article to the consumer. In the tobacco industry, moreover, the statutory determination of the size of package in connection with the customary round price paid for it tends to prevent changes.

The disintegration of the tobacco combination under the Sherman law is an accomplished fact. That the attempt to enforce the law is a failure, because, as recently asserted, the securities of the new corporations have a collective value not much below those of the old combination prior to the dissolution proceedings, does not necessarily follow. In the first place, the market value of the old securities was unduly depressed during the period of litigation. Moreover, the large earnings of the combination were only in part disbursed in dividends, the American Tobacco Company having accumulated a surplus of more than $61,000,000 in less than a decade. The prospect of a freer distribution of earnings, even if in the aggregate they are less, has naturally maintained a relatively high value for these securities.

In considering the efficacy and value of disintegration proceedings, it must finally be borne in mind that the almost complete domination of an industry by a single group of interests is not necessarily the most desirable status that can be conceived. A

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great consolidation, such as the American Tobacco Company, called into being by the ambitions of a few individuals, fostered in part by the desire of underwriting syndicates for large profits and in part by the opportunity offered for stock manipulation, can not be declared off-hand to be the best form of development in any industry. It is by no means evident that such a combination can be made capable of producing the best economic results or of giving the best service to the public, even if placed under strict governmental control. Disintegration, as it has been carried out in the tobacco industry, has produced a new status. It has created from the combination a limited number of relatively large businesses, each equipped to maintain all the economies of production developed by the original combination and in a position to compete with each other. Whether this new status will prove in the long run more acceptable than the old remains to be seen. The economic soundness of dissolution proceedings against monopolistic combinations must be determined by their ultimate results.

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COLONIAL APPEALS TO THE PRIVY COUNCIL. I

THE rise of the king in council to the position of a court of last resort for colonial judicial appeals is a subject of much interest for the student of American constitutional law.[1] Not only did the Privy Council come to sustain a relation to the colonial courts analogous in a general way to that which the United States Supreme Court bears to the state courts in our present system, but at least three cases appealed to the English tribunal involved the important principle of American jurisprudence which accords to the judiciary the power of declaring invalid an act of a subordinate legislature.

The appellate jurisdiction of the king in council secured important advantages both to the colonist and to the crown. To the colonist, it represented a means of relief from arbitrary proceedings of colonial courts, which were sometimes swayed by local prejudices rather than controlled by considerations of law and justice. To the crown this appellate control afforded a means of preventing important changes in colonial law without the consent of the mother country; and it also served the purpose of correcting judgments given in the colonial courts to the disadvantage of the crown.[2]

I

The legal status of appeals from the American colonies was fixed by three classes of enactments: (1) regulations of the home government affecting appeals, as expressed in orders of the king in council and in commissions and instructions to the colonial governors; (2) colonial charters and grants from the crown; and (3) laws passed by colonial legislatures affecting

[1] This study is confined to appeals from the British colonies that later formed the thirteen original states of the United States.

[2] According to a representation sent to the Council of Trade in 1715 by the king's orders, the home government believed that the system of appeals "contribute[d] very much towards keeping Governors and Plantation Courts in awe." Colonial Records of North Carolina, II, 161.

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appeals. This threefold arrangement does not denote that each set of regulations had its own special and peculiar functions to perform; it signifies rather that, in a fashion characteristic of British colonial administration, three organs were concerned in dealing with conditions that might better have been regulated by one.

The first general regulation of the matter by the crown was the order in council of January 23, 1684, that no appeals should be admitted thereafter from the colonies without "sufficient security . . . to prosecute their appeals effectually and to stand the award of his Majesty in council thereupon."[1] This order specified no definite amount of security; it is evident that the sum was to vary with the importance of the case. The order of 1684 also failed to mention a money value which a case must involve before it was subject to appeal.[2] But the commission issued to Thomas Dongan as royal governor of New York, on June 10, 1686, named such a minimum amount in the case of New York. It also traced the main lines of all later commissions and instructions to colonial governors in respect to appeal to the crown by announcing four principles or rules of procedure: (1) "The matter in difference" must exceed the value of £300 sterling; (2) the appeal must be made within a fortnight after the decision of the colonial court; (3) security must be given by the appellant to answer such charges as should be awarded in case his appeal should not be sustained; and (4) execution of the decree of the colonial court should not be

[1] Acts of the Privy Council of England, Colonial Series, II, no. 123.

[2] Three regulations of the king in council, applying however only to individual colonial governments, preceded the general order of 1684. The commission of John Cutt as governor of New Hampshire in 1679 and Cranfield's New Hampshire commission of 1682 had designated £50 as the minimum value in an appealable case; N. H. Provincial Papers, I, 373–382, 433–443. An instruction of 1682 to Lord Culpeper, governor of Virginia, had specified a value of £100; Calendar of State Papers, Colonial Series, America and West Indies, 1681–85, no. 384; Hening's Statutes, III, 550–551. Professor H. L. Osgood notes that the commission of Joseph Dudley as president of the temporary government of Massachusetts, September, 1685, named £300 as the necessary amount; The American Colonies in the Seventeenth Century, III, 384. A complete collection of governors' commissions and instructions might perhaps show other instances.

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suspended by reason of the appeal to the king in council.[1] This last provision worked an injustice in a number of cases and was modified after the year 1727, as will be noted later. The commission issued to Sir Edmund Andros as governor of New England in May, 1686, and his second commission of April, 1688, repeated these instructions and seemed to point to a definite policy of fixing £300 as the minimum amount for appealable cases.[2] In 1689, however, a general instruction to the colonial governors forbade them to allow appeals to the king in council unless the estate or matter in question amounted to the value of £500 sterling.[3] This instruction was probably meant for the island colonies and other possessions of England which were far wealthier than her American continental colonies, for the £300 rule is specified in a number of accessible commissions and instructions from 1690 down to 1730.[4] To this rule, however, there were two temporary exceptions. In New Hampshire, appeals were allowed to the king in council from 1692 to 1698 when the amount in dispute exceeded £100 sterling.[5] In New Jersey, from 1702 to probably 1758, the minimum amount was fixed to exceed £200 sterling.[6]

Differentiation of the general class of appeals into particular

[1] New York Colonial Documents, III, 377–382.

[2] N. H. Provincial Papers, II, 1–10; N. Y. Colonial Documents, III, 537–542.

[3] N. C. Colonial Records, II, 161.

[4] Commission of Governor Sloughter of New York, January 4, 1690; N. Y. Colonial Documents, III, 623–629. Commission of the royal governor, Lionel Copley, of Maryland, June 27, 1691; Maryland Archives, VIII, 263–271. Commission of Benjamin Fletcher as governor of New York, March 18, 1692, and his commission as governor of Pennsylvania, June 27, 1692; N. Y. Colonial Documents, III, 827–833, 856–860. Commissions of the Earl of Bellomont as governor of New York, June 18, 1697, and as governor of New Hampshire, of the same date; *ibid.* IV, 266–273; N. H. Provincial Papers, II, 305–312. Commission of Governor Joseph Dudley of New Hampshire, April 1, 1702; N. H. Provincial Papers, II, 366–375. Instructions of Governor Hunter of New York, December 27, 1709; N. Y. Colonial Documents, V, 124–143. Instructions of the royal governor, George Burrington, of North Carolina, December 14, 1730; N. C. Colonial Records, III, 90–118.

[5] N. H. Provincial Papers, II, 57–62, 63–69.

[6] Instructions to Cornbury, November 16, 1702, in Grants and Concessions of New Jersey, 619–646; and to Morris, April 14, 1738, in N. J. Colonial Documents, VI, 15–51.

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classes of cases with varying amounts necessary for the appeal began almost at once. The lack of a complete set of governors' instructions prevents an adequate statement respecting the first class of special causes: "all cases of Fines Imposed for misdemeanors." The first instruction in regard to such cases appeared as early as 1690, but the material accessible would indicate that throughout the period only three provinces were affected, namely, New York, New Jersey and North Carolina. Instructions to the governors of New York in 1690 and 1709 granted permission for appeal to the king in council "in all cases of Fines Imposed for misdemeanors, Providing the Fines so imposed exceed the Value of Two hundred Pounds."[1] In the case of New Jersey, instructions to the governors in 1702, 1738 and 1758 fixed the minimum amount in such cases at £200 sterling.[2] In North Carolina, instructions to the governors in 1730 and 1754 placed the minimum sum at £100 sterling.[3] The object of these regulations was evidently the prevention of extortionate penalties at the hands of the colonial officials; and their purpose, the protection of the subject. An examination of the cases appealed shows that few, if any, cases in this class were appealed.

In 1712 a question arose respecting a class of cases in which this time the home government had a particular interest. A controversy had arisen as a result of the anomalous religious situation then existing in New York. Upon the death of Mr. Urquhart, rector of the parish of Jamaica, Long Island, in 1710, Governor Hunter had inducted into office Mr. Thomas Poyer, a person duly qualified according to the royal instructions. But Poyer was kept out of the parsonage house and glebe by the Presbyterians, who laid claim to the property. Poyer was

unwilling to seek his remedy at Law, being apprehensive that if a Cause of the Church should be Tryed and Judged by Dissenters, he

[1] N. Y. Colonial Documents, III, 685-691; V, 124-143.

[2] Grants and Concessions, 619-646; N. J. Colonial Documents, VI, 15-51; IX, 40-77.

[3] N. C. Colonial Records, III, 90-118; V, 1107-1144.

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Would not find Justice, and the Value of said House and Glebe being small, an Appeale would not Lye from the Inferiour to your Majesty's Govr and Councill there.

The Society for the Propagation of the Gospel brought this matter to the attention of the Privy Council in a representation and petition, which on July 28, 1712, the Council referred to the Board of Trade for its report. In accordance with the report of the Board of Trade, an order in council was issued on February 6, 1713, that appeals should be admitted to the governor and council, and thence to the Privy Council, in all cases where the clergy were immediately concerned, regardless of the amount of money in question.[1] From the evidence at hand, this exemption from the general rule seems to have been little used, if at all.

Before the close of the seventeenth century, the question arose whether cases involving an infraction of the Acts of Trade could be appealed to the king in council. On May 27, 1697, the Privy Council issued orders for admitting appeals by customs officers to the crown in cases of seizure for illegal trading.[2] This class of cases came to form a fair proportion of those appealed.

In 1727, a practice that had been working much injury to appellants was remedied. Previous to that time, the instructions of the colonial governors had contained a proviso that the execution of the decree of a colonial court should not be suspended by reason of an appeal to the king in council, in any case where a judgment first given by an inferior court was afterwards confirmed by the governor and council. From this regulation, great inconveniences and injustice had resulted,

[1] Acts of the Privy Council, II, no. 1168; N. Y. Colonial Documents, V, 345–346, 352; Documentary History of N. Y., III, 164–165.

[2] Acts of the Privy Council, II, no. 480. The principle involved is indicated in Attorney-General Northey's opinion in a Nevis case; Chalmers, G., Opinions of Eminent Lawyers on Various Points of English Jurisprudence, 531–532; and in a representation of the Committee for Appeals to the Privy Council; Acts of the Privy Council, II, no. 635. When the colonial courts of admiralty were held by virtue of the royal commission, the appeals were reviewed by the Privy Council; if held by authority derived from the admiralty of England, they were adjudicated by the British Court of Admiralty.

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because by the time the decision of the king in council was learned in the colonies, the appellee had often become insolvent or had removed himself and his effects from the province. In such a case, when the colonial judgment was reversed and the order in council arrived for making a restitution of estates or goods, it became ineffectual and the appellant was left without redress. The instruction to the governors of February 8, 1727, required them

> to Suspend the Execution of any Judgment or Decree, in case of an appeale, till the same be Determined at home, unless good and Sufficient Security be given by the Appellee to make Ample Restitution of all that the Appellant shall have lost by means of such Judgment or Decree,

in case it should be reversed.[1] This regulation seems to have removed all cause for complaint on that score thereafter; and it was uniformly embodied in all later instructions to colonial executives.

In the instructions of February 4, 1746, the king in council formulated in a single comprehensive enactment the different practices that had been authorized in previous years, and, profiting by past experiences, introduced a few innovations.[2] According to these instructions: (1) the appeal must be made within fourteen days after sentence had been declared; (2) "good security" must be given by the appellant that he would effectually prosecute his appeal and would answer the condemnation, as well as pay such costs and damages as might be awarded, should the colonial judgment be affirmed; (3) execution of the sentence of the colonial court must not be suspended, unless the appellee give ample security to cover any possible damages suffered by the appellant in case his appeal should be sustained; and (4) the amount involved in the case must exceed £500. But cases "where the matter in question

[1] Acts of the Privy Council, III, no. 100; N. Y. Colonial Documents, V, 816–817; N. C. Colonial Records, II, 637.

[2] Burge, W., Commentaries on Colonial and Foreign Laws, I, Introduction, xlvii, xlviii. These instructions comprise the best single statement which is to be found in reference to appeals.

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relates to the taking or demanding any duty payable to us," *i. e.* the crown, "or to any fee of office, or annual rent, or any such like matter or thing, where the right in future may be bound" were to be subject to appeal although the amount involved were less than £500.[1]

Any attempt to summarize, for the entire colonial period, the development of the law regarding the minimum value necessary for appeal, as set forth in the regulations of the king in council, is unsatisfactory, because, as we have seen, the practice varied. The prevailing practice, however, may be stated as follows:

(1) Except in special classes of cases the minimum value requisite for appeal was £300 sterling until 1746; after that date, it was raised to £500 sterling.

(2) In a number of colonies, if not in all, cases involving fines imposed for misdemeanors could be appealed at a much lower amount, usually £200 sterling.

(3) From the second decade of the eighteenth century on, New York cases in which the clergy were immediately concerned could be appealed, regardless of the sum of money in question. Had occasion arisen, this rule would probably have been applied to the other colonies.

(4) After 1746, any cases encroaching upon the crown's prerogative in the matter of the taking of a duty or annual rent or fee of office or the like could be appealed, regardless of the money value involved.

(5) To all regulations requiring a minimum sum for appeal, the Privy Council throughout the eighteenth century upon occasion allowed exceptions. The restraints on appeals were viewed as restraints upon the colonial authorities alone and not upon the king in council. Exceptional cases were brought to

[1] The rules formulated in the general instructions of 1746 were restated in subsequent instructions to single colonial governors. Of these only three sets are to be found in print: those of Governor Dobbs, of North Carolina, in 1754, of Governor Bernard, of New Jersey, in 1758, and of Governor Moore, of New York, in 1765. All these specify the higher minimum of £500, together with the exceptions recited in the general instructions of 1746. N. C. Colonial Records, V, 1107–1144; N. J. Colonial Documents, IX, 40–77; N. Y. Colonial Documents, VII, 764–765. Sir Henry Moore's instructions are given only in part.

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the attention of the Privy Council by means of a petition for liberty to appeal, presented by the would-be appellant. An example of such an appeal is to be found in the action of the Privy Council of March 29, 1715, when two cases of Samuel Lillie, of Boston, were admitted for final adjudication, although the amounts involved were in each instance less than £300.[1] The general practice in such cases was stated in the opinion of Attorney-General Northey, in reference to a Jamaica case, December 19, 1717. The attorney-general said that, notwithstanding the fixing of a definite amount necessary for appeal in the instructions to the governor, "it is in his Majesty's power, upon a petition, to allow an appeal in cases of any value where he shall think fit, and such appeals have been often allowed by his Majesty."[2]

A final word remains to be said concerning the regulations of the Privy Council. On April 14, 1752, instructions were sent to the colonial governors that the various colonies should revise their laws, as Virginia had done in 1748–1749. One of the avowed purposes of this order for the framing of a body of well-digested laws was that the determination of appeals from the colonial courts "depends upon being duly informed of the Laws subsisting there." On this account also, instructions were sent to the chartered colonies, whose laws were not subject to disapproval by the crown, that they should transmit as soon as convenient "a true and Authentic Copy of all their Laws." These directions of the home government were not received with favor by the colonial legislatures; and the Privy Council waived its plan in 1761.[3]

Until the end of the seventeenth century, the provisions of colonial charters were of importance in the matter of appeals to the Privy Council. Throughout the greater part of that century there were frequent instances in which the authorities in the chartered colonies successfully refused to permit appeals,

[1] Acts of the Privy Council, II, no. 1150. *Cf.* the Massachusetts case of Leighton *v.* Frost in 1735; *ibid.* III, no. 345.

[2] Chalmers, G., Opinions, 489–491.

[3] Acts Privy Council, IV, nos. 167, 210, 444.

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basing their denial on provisions, or on the lack of provisions, in the royal grants.[1]

An examination of the colonial charters[2] yields the following results. The grant of Maine to Ferdinando Gorges, in 1639, contained a provision that might be interpreted to refer to the appellate jurisdiction of the crown, but the word "appeal" did not appear. The Carolina charters of 1663 and 1665 contained references in terms almost as general. The grant to the Duke of York, in 1664, of New York, New Jersey and Maine was the first fundamental law that expressly reserved to the king, his heirs and successors the determination of appeals from judgments given in the colonial courts. The same provision was repeated in the grant of 1674 and in the exemplification of this grant by Queen Anne in 1712. The charter of Pennsylvania of 1681 followed very closely the form of statement in the New York grant in regard to appeals. All these patents reserved the determination of appeals to the king, but it cannot be doubted that the king in council was meant. The latest charter to mention the appeals was the charter of Massachusetts Bay of 1691. In this charter, the provisions of which were evidently modeled on the Andros commissions of 1686 and 1688, the king in council was expressly designated as the appellate tribunal, and the usual four rules governing appeals were laid down,[3] with the variation that only *personal* actions were named as being appealable. This clause created much controversy in the eighteenth century, as will be noted later. In the charters of Rhode Island, Connecticut, Maryland and Georgia there was no direct recognition of the appellate jurisdiction of the crown, but there were provisions from which the right of appeal was inferable, namely, that the inhabitants of the colonies and their children should be deemed British subjects and should be entitled to all the liberties and immunities thereof, and that no laws should be made by the colonial legislatures repugnant to the law of the realm.

[1] *Cf. infra*, p. 292.

[2] Thorpe, F. N., Federal and State Constitutions was used.

[3] Including the giving of security by the appellee for the privilege of a non-suspension of the colonial judgment; *cf. supra*, pp. 284, 285.

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As the eighteenth century approached, the home government assumed and maintained the position that it was a matter of no consequence whether or not the colonial charters contained provisions authorizing appeals. This doctrine was plainly enunciated, in 1701, in the opinion of the law officers of the crown, elicited by the refusal of Connecticut to permit appeals;[1] it received its most vigorous and extreme expression in the famous Privy Council case of Christian *v.* Corren, appealed from the Isle of Man in 1716.[2] In this case, the counsel for the appellant argued:

> The subject cannot be deprived of his right to appeal by any words in the King's grant to that purpose, much less if the grant be silent in that particular. . . . It was the right of the subjects to appeal to the sovereign to redress a wrong done to them in any court of justice; nay, if there had been any express words in the grant to exclude appeals, they had been void; because the subjects had an inherent right, inseparable from them as subjects, to apply to the crown for justice.

Upon the weight of this argument, the Privy Council admitted the appeal in question. The extent to which this doctrine was applied in American cases is shown by the fact that the king in council received and decided a larger number of appeals from Rhode Island, whose charter did not authorize appeals, than from any other colony.

In case of a conflict between a colonial enactment and an order in council, the colonial enactment prevailed; provided always, of course, that it was not disallowed by the home government. Not only was the colonial law theoretically superior in the particular colony, but the colonial legislature could enforce its will through its control of the budget.

The importance of the legislation affecting appeals varied in the different colonies. An examination of statutes of five colonies, Virginia, Connecticut, Massachusetts, New York and Rhode Island, seems to indicate that most of the colonial legislatures

[1] *Cf. infra*, pp. 294–296.

[2] Macqueen, Appellate Jurisdiction, 740, 741, quoting from Peere Williams' Reports, I, 329.

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either did not concern themselves with the matter of appeals, thus yielding to the orders in council unobstructed sway, or gave legal sanction to the orders and instructions of the home government, with some slight variations. Additional legislation was sometimes passed, defining for the particular colony what was meant by the term "good security."

Virginia passed no laws concerning appeals until 1710, when an act of the legislature expressly asserted the queen's right of determining appeals "in such cases where the same . . . may be allowable by the order or instruction of her majesty, her heirs or successors . . . ; and that all such appeals, commissions and instructions shall be allowed, held good, valid and available . . ."[1] The legislature of Connecticut did not go so far as to deny or abridge the right of appeal by its enactments, but it refused to clothe it with its legal sanction. Three laws passed in Massachusetts (1692–1697), which sought to restrict the classes of appealable cases, were disallowed by the home government; and thereafter no further attempts were made to regulate appeals.[2] In any case, the process of appeals in that province was fully legalized and adequately provided for by the charter provisions. In New York, the first law touching appeals was enacted in 1683; the minimum amount involved necessary for appeal was fixed at £100, "anything to the Contrary hereof in any wise notwithstanding."[3] This provision was contrary to the commissions of Governor Dongan and Governor Sloughter, of 1686 and 1690, which specified £300, and to the general instructions to the governors of 1689 which designated £500. However, no change was made in the law until 1691, when the appealable amount was raised to £300.[4] In this later law the provisions of the earlier law as to the security to be furnished by the appellant was retained. In order to carry a case to the king in council, the appellant was required: (1) to pay all costs of the colonial decree, and all debts and damages adjudged against him in any other suits

[1] Hening's Statutes, III, 489, 490.

[2] Acts and Resolves of Massachusetts, I, 72–76, 144, 145, 283–287, 367–375.

[3] Colonial Laws of New York, I, 128, 129. [4] *Ibid.* I, 226–231.

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within the province; (2) to give "in two sufficient securetyes by Recognizance" double the value of the debt or matter involved in the colonial court; and (3) to prosecute the appeal with effect and make return thereof within twelve months, or execution should issue against him or his securities.

Colonial legislation in general shows very little hostility to the *principle* of the appellate jurisdiction of the king in council. But there was a tendency, very slight in most colonies and best expressed in the classic instance of Rhode Island, to shape the process of appeals according to the needs of the particular colony and regardless of the wishes of the home government. Rhode Island was favorably situated to attain this end, because its government was subjected only to the loosest supervision by the home government, and under its charter it was largely empowered to control its own destinies. The governor, probably, did not receive many of the periodical instructions from the British administration regulating appeals, and thus, in a sense, Rhode Island was given a free hand. The colony was continually at odds with its neighbors over questions involving boundary rights and consequently land titles. As a result, the Rhode Island assembly was disposed to make appeals to England as expeditious and as easy as possible, for in this way it might be possible to gain the sanction of the home government for its claims.

Rhode Island legislation in regard to appeals began in 1706, when no minimum value necessary for appeal was designated and the only requirement fixed was the giving of bond by the appellant as an earnest for prosecution.[1] Other evidence indicates that, in practice, a value of £20 was required before a case was considered appealable.[2] As a result, many cases of "very small moment" were appealed to the king in council, and many persons of little means were compelled to lose their rights through inability to defend them. The Act of 1719, accord-

[1] R. I. Colonial Records, III, 562. For a general discussion of the attitude of Rhode Island, see H. O. Hazletine, "Appeals from Colonial Courts to the King in Council with Especial Reference to Rhode Island," Annual Reports of the American Historical Association, 1894, 299–350.

[2] R. I. Colonial Records, III, 548.

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ingly, placed the minimum amount at £300 current money—a sum that, by the time the next law was passed, was equal to less than £30 sterling.[1] Still finding that appeals were being carried to England in matters of too small value, the legislature in 1746 enacted that £150 sterling should be the limit below which no cases could be appealed.[2] This new value was equal to £1650 current money. This amount was found still to be too low, and an Act of 1764 increased it to £200 lawful money (*i. e.* gold and silver coins) and declared that suits whose foundation was "a bond conditioned for the payment of money only" should not be subject to appeal regardless of the amount involved.[3] A later law of 1771 advanced the minimum value of appealable cases to £300 lawful money.[4] Meantime various regulations had been passed by the legislature with the object of restricting the number of appeals and standardizing the process. These provisions were summed up in the Act of 1764, which included a few features of an earlier law of 1750.

By the Act of 1764, three of the principles which distinguished the Privy Council enactments were incorporated in the laws of Rhode Island, but with certain marked variations: (1) the minimum value required for appeal was fixed, as noted above, at £200; (2) nothing was said about the fourteen days' limit for making appeals; (3) the appellant was required to give security for prosecution, but in the arbitrary amount of £250 lawful money; and (4) execution of the colonial judgment was to be suspended, unless the appellee gave bond in the sum of £250 to restore to the appellant whatever was lost by him in case the decision of the lower court was reversed.[5]

[1] Public Laws R. I., Digest 1730, 106. This ratio may be inferred from the circumstance that in 1747 Rhode Island received from Parliament £7800 sterling as her share of the colonial outlay for the Louisburg expedition. With this amount, the Rhode Island committee in charge of the matter redeemed £88,725 of bills of credit. It appears, accordingly, that £11 current money was deemed equal to about £1 sterling. R. I. Historical Tracts, no. 8, p. 67.

[2] Public Laws R. I., Digest 1752, 30.

[3] Public Laws R. I., Digest 1767, 10.

[4] Public Laws R. I., Digest 1772, 38.

[5] Public Laws R. I., Digest 1767, 10. Supplementary acts of 1768 and 1769 made changes of no importance as regards the present study; *cf.* Public Laws R. I., Digest 1772, 8, 17.

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This brief review has shown Rhode Island practically unaffected by the enactments of the home government. While the other colonies prior to 1746 had generally a minimum appealable value of £300, Rhode Island had none at all until 1719, when a £30 value was required; and after 1746 Rhode Island had the successive minimum amounts of £150, £200 and £300, while the other colonies apparently were restricted by a £500 proviso. Moreover, Rhode Island was left until 1764 without a code appeal at all comparable to that under which the other colonies had been acting since the beginning of the century. But attention should again be called to the fact that Rhode Island was not a typical instance.

II

From the fact that colonial legislation, as a rule, betrayed no opposition to the principle of appeal it is not to be inferred that there was no opposition in the colonies to the appellate system. There were, on the contrary, efforts to impede and even to prevent its operation; and, in the case of Massachusetts, there was obstructive legislation. These efforts may conveniently be described under four heads: (1) denial of the right of appeal; (2) hostile colonial legislation; (3) evasion by the colonial authorities; and (4) lax enforcement of the orders in council.

In the seventeenth century, when the home government had not yet begun to assert aggressively its prerogative to hear all appeal cases and the number of litigants seeking to appeal was comparatively small, numerous instances may be found of a denial of appeal successfully maintained by colonial authorities. These denials occurred almost exclusively in the chartered colonies. Thus, in November, 1637, the Massachusetts General Court refused an appeal to the Reverend John Wheelwright, declaring

> an appeal did not lie in this case, for the King having given us authority by his grant under the great seal of England to hear and determine all causes without reservation, we are not to admit any such appeal . . . and if an appeal should lie in one case, it might be chal-

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lenged in all, and then there would be no use of government amongst us.[1]

Throughout her existence as a corporate colony, Massachusetts stubbornly maintained her position of judicial independence.

In proprietary North Carolina, the court declared in some detail its reason for not granting an appeal to an aggrieved party.[2] First, there was "no law, rule or custom for this court (whose authority, as appears by commission, is as full within this government as that of the King's Bench in Great Britain) to stop execution of their judgment, by appeal here made"; second, "this court cannot by law compel the parties to appear before the king and his council, nor ascertain any time for their so doing"; third, "nor is it certain that the king in council will take cognizance thereof." Even as late as 1720, there may be found in the case of South Carolina a petition from the council and assembly to the king, declaring that no method of appeals existed "for the ease of Your Majesty's subjects to Your Majesty and Council, as is done in the rest of Your Majesty's colonies."[3]

The real struggle between the home government and the colonies over the appeal of cases to the king in council occurred in the closing years of the seventeenth century. As before, the chartered colonies were most tenacious in their claims to the ultimate decision of causes arising within their boundaries; but suggestions of protest may be found in the royal province of New Hampshire,[4] and even in the Old Dominion itself, which had been subject to the appellate jurisdiction of the

[1] Osgood, American Colonies in the Seventeenth Century, I, 249. For numerous other instances, see *ibid.* I, 285; III, 162, 184, 185, 190, 315, 318, 329, 330, 331, with references. John Leverett, the Massachusetts agent, was reported to have declared in 1661 in London that, before they would admit of appeals, the colonists would deliver New England up to the Spaniard; Maverick to Clarendon, Collections N. Y. Historical Society, Fund Series, 1869, p. 30.

[2] Hawks, F. L., History of North Carolina, II, 209 (date of case is not indicated). Chalmers, G., Introduction to the History of the Revolt, I, 301, 302, alludes to other denials in Carolina.

[3] Osgood, *op. cit.*, II, 300, 301.

[4] New Hampshire Provincial Papers, II, 341, 342.

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king in council almost from the beginning.[1] The attitude of the chartered colonies is indicated by a letter of the Board of Trade to the Earl of Bellomont of April 29, 1701, which speaks of "this declining to admit Appeals to his Maj'ty in Council" as "a humour that prevails so much in the Proprieties and Charter Colonies."[2] A representation of the Board of Trade to the king on March 26, 1701,[3] declared that "diverse of them [the chartered colonies] have denyed appeals to your Majesty, . . . that benefit enjoyed in the Plantations under your majesties immediate Government." A representation of the Board of Trade of March 1, 1702, again averred that the chartered colonies "had refused . . . to allow appeals."[4] This position of judicial independence constituted one cause of the movement in progress at that time for the withdrawal of all colonial charters by an act of Parliament.

The case of Connecticut was the most conspicuous instance of the denial of appeals. Her charter made no mention of the appellate jurisdiction of the king in council, and she was not inclined to yield her privilege of settling finally any cases that arose within her limits. This attitude was in harmony with her determined purpose to maintain a politically self-sufficient commonwealth. As early as October, 1684, the Connecticut General Court grudgingly declared that, although they did not find anything in the charter "oblidging, requiring or comanding" them to grant the liberty of an appeal to His Majesty, they would not "in any wise put a barr upon the lawful liberty of the demandents, to impeed their appearance before his Ma^tie or any of his courts."[5] This permission, however, was never acted upon by the parties who petitioned for the privilege. Before the end of the century, Connecticut had assumed a more

[1] Account of the Present State of the Government of Virginia (1696–98), in I Massachusetts Historical Society Collections, V, 139; Chalmers, Introduction *etc.*, I, 164.

[2] N. H. Provincial Papers, II, 341, 342.

[3] N. C. Colonial Records, I, 535–537, 540. This charge was repeated *verbatim* by the Board of Trade on January 10, 1705–06; *ibid.* I, 630–633.

[4] Palfrey, J. G., History of New England, IV, 200.

[5] Conn. Colonial Records, III, 167.

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stiff-necked attitude. In 1698, John and Nicholas Hallam, and Edward Palmes and John Hallam, sought to appeal "two particular cases" to the king in council.[1] Their petitions were refused by the Connecticut court on the grounds that the colony courts were the tribunals of last resort. Thereupon the men petitioned the Privy Council for liberty to appeal; and the order in council of March 9, 1699, declared to the governor and company of Connecticut that any persons, aggrieved by the judgments of the Connecticut courts, should be allowed to appeal to the king in council, adding that it was "the inherent right of His Majesty to receive and determine appeals from all his Majesty's colonys in America; and that they do govern themselves accordingly." The colony, imagining that the crown was taking away her charter rights, still refused to comply, the governor declaring, according to a representation of the Hallams, that before an appeal should be allowed, "they would dispute the point with your Majesty." On October 22, 1699, the governor and company of Connecticut presented their case in a diplomatically-worded letter to the Board of Trade, justifying their pretensions by their remoteness from England and by the provisions of their charter. Sir Henry Ashurst, the Connecticut agent, appeared in behalf of the colonial claims on December 13. The persistence of Connecticut in claiming that appeals to England were illegal under her charter caused the Board of Trade to turn to Attorney-General Trevor and Solicitor-General Hawles for their opinion, both as to the legality of appeals and as to the means of forcing Connecticut to comply with the order of March 9. On May 15, 1701, their very important opinion was rendered to the effect that

> though there is no reservation of Appeals to his Majesty in the Charter granted to Connecticut, yet that an Appeal doth lye to H. M. in his Council as a right inherent in the Crown, and in case they refuse to

[1] This account is based upon: America and West Indies Calendar, 1699, nos. 119, 120, 160, 161, 270, 290; 1700, nos. 385, 460, 477, 974, 1002, 1012, 1014, 1021; 1701, nos. 166, 442, 480, 533; and Macqueen, Appellate Jurisdiction, 805, 806; Acts of the Privy Council, II, nos. 733, 734; Palfrey, New England, IV, 224; Caulkins, F. M., History of New London, 222–227.

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allow the Appeal there, we think H. M. may proceed to hear the merits of the cause upon an Appeal made to him in Council, whether that Appeal be allowed or admitted there or not.[1]

In accordance with this opinion, an order in council on June 12 admitted John and Nicholas Hallam to appeal, these parties having given the proper security to prosecute their appeal and to abide by his majesty's determinations.

A representation of the Board of Trade to Queen Anne on January 10, 1706, declared that the authorities of Connecticut "have refused to allow appeals to Your Majesty in council, and give great discouragements and vexation to those that demand the same."[2] Acts of the Connecticut government in 1704 and 1710 indeed acknowledged indirectly the legality of the appellate jurisdiction of the crown but refused to assist its operation.[3] So far as the published records of the Privy Council show, the colony consistently refused to permit appeals throughout her history. On the other hand, the Privy Council invariably admitted cases from Connecticut upon petition.

The provisions of the Rhode Island charter were similar to those of the Connecticut instrument; but her views in regard to the desirability of appeals were very different, as has been noted. As early as July, 1685, Edward Randolph charged Rhode Island with denying appeals to the king in council, but his evidence is not unimpeachable.[4] In February, 1699, Francis Brinley, a merchant of Rhode Island, petitioned the Privy Council for leave to appeal, alleging that he had met with serious obstructions to justice in the local courts.[5] The account of his case was admittedly vague and unsatisfactory; but the Board of Trade, still in the heat of the controversy with Connecticut, advised the Privy Council to assert its authority. The result was an order in council of April 27, 1699, directed

[1] America and West Indies Calendar, 1701, no. 442.

[2] R. I. Colonial Records, IV, 12-15.

[3] Conn. Colonial Records, IV, 480; V, 161.

[4] R. I. Colonial Records, III, 175.

[5] This account of the Brinley case is based upon: America and West Indies Calendar, 1699, nos. 122, 299, 315, 341; Acts of the Privy Council, II, no. 732.

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to the governor and company of Rhode Island, which reiterated the declaration of the previous month to Connecticut, that it was "the inherent right of His Majesty to receive and determine appeals from all His Majesty's colonies in America and that they do govern themselves accordingly." Governor Cranston's letter to the Board of Trade in response to the order in council proves beyond question that Brinley's statements in his petition had been false. He was shown to have neglected all the legal requirements for rehearing of his case in the Rhode Island courts, and then Cranston continues:

> There was never any appeal desired by Brinley of this Government; neither was there any other person ever denied an appeal to His Majesty. But we believe in the case of small actions like this, which does not exceed £20, it will be a great prejudice to the poor subject to be liable to be appealed against. We beg you to state what value appeals shall be granted upon.[1]

However, Rhode Island, notable for her remissness in so many matters, did not succeed easily in clearing herself of the taint of denying appeals. The representation of the Privy Council against the colony on March 26, 1705, repeated the charge; and Governor Dudley, of Massachusetts, and Lord Cornbury, governor of New York, gave similar testimony in letters to the Board of Trade of November 2 and November 26, 1705.[2] But the Rhode Island officials stoutly denied the charges, saying they had not refused to allow appeals when duly applied for and when the value of the matter in controversy required the same.[3] In fact, as the eighteenth century progressed, Rhode Island showed herself very anxious to take advantage of the benefits of the appellate system; and the instances of appeals being denied by the courts of the colony were relatively few.

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[*To be continued.*]

[1] America and West Indies Calendar, 1699, no. 672.

[2] R. I. Colonial Records, 543, 545. [3] *Ibid.* III, 548.

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THE IRISH HOME RULE BILL

UNLESS some reverse should overtake the Liberal government, it is now almost certain that between April and June of 1914 the Home Rule Bill, which was rejected in the House of Lords on January 30, 1913, by a vote of 326 to 69, will become law, and that once more there will be an Irish Parliament in Dublin. This measure will probably be the first law on the statute book of Great Britain to which there will not be prefixed the clause: "Enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons"—the first act to become law under the Parliament Act of 1911. The vote of January 30 showed that, without the help of the Parliament Act, the Irish bill could hardly have become law without at least one more general election, and that it would have been necessary to dissolve Parliament definitely on the home rule issue in order to obtain a popular mandate too strong to be disregarded by the House of Lords. In 1893, when Gladstone's second Home Rule Bill passed the House of Commons and was rejected by the House of Lords, the Liberal government did not consider the measure of such paramount importance as to induce them to go to the country after one year of office; and the election of 1895, which put the Conservatives again in power, was fought on other issues besides that of home rule. In fact, in spite of the long and persevering fight that the Irish Nationalists have made for home rule, and in spite of the fact that home rule has had its place in Liberal programmes since 1886, it is difficult to believe that any home rule bill would have had a reasonable chance of becoming law in the present generation, had it not been that the Lords, by throwing out the Finance Bill of 1909, defied the Commons and invited the contest in which they were worsted. With the Parliament Act in force, the Liberals are in a position to re-pass the present Home Rule Bill in the session of 1913 for the Lords again to reject and, in 1914, to send it forward to the king for his signature without the advice and

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consent of the lords spiritual and temporal. Home rule for Ireland will be the first-fruits of the great constitutional change which has destroyed the power of the House of Lords to annul Liberal legislation and has left it only the power to delay.

Not much change is likely to be made in the bill as it was passed by the House of Commons on January 16, 1913. Under the Parliament Act the bill must be passed by the Commons for the second and the third time in practically its original shape. The only amendments permissible in the House of Commons are such as are certified by the speaker to be necessary, owing to the time which has elapsed since the date of the former bill. The Parliament Act permits amendments which have been made in the House of Lords to be accepted by the Commons; and, if the upper house were really anxious for the best possible legislation, much might be done in coöperation with the government to improve the measure during the period of delay which the Lords are still permitted to interpose. It is not expected, however, that the Lords will make use of their limited powers to this end. The vote of January 30 showed them to be on the whole utterly irreconcilable, and while amendments might be suggested for the Liberal government by Lord Morley or Lord Haldane, there is little probability of their being accepted by the House of Lords and incorporated in the bill with the consent of the House of Commons. In the House of Commons it is useless to spend time in debating a bill whose passage is assured, but whose amendment is impossible; hence the bill as it passed its third reading in the House of Commons on January 16, 1913, may be accepted as the measure which will restore to Ireland its Parliament and confer on the Irish nation the keenly desired boon of self-government.

It is not possible within the limits of this article to review the history of Ireland since the Union. It may be well, however, to recapitulate the principal events leading up to Gladstone's first Home Rule Bill, which was introduced in the House of Commons on April 8, 1886. From 1800 to 1829 there was no articulate expression in Parliament from the Irish nation, for no Roman Catholic Irishmen were in the enjoyment of the franchise. Catholic emancipation, which was forced from the British gov-

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ernment in 1829, was followed by the agitation for "repeal" led by O'Connell. This movement collapsed in 1843, and then followed the bitter years of famine and emigration which reduced the population by almost one-half.[1] From 1848 to 1871, the predominant features of Irish history were discontent and disaffection. Fenianism, which had its rise in the sixties, kept England in panic and nearly embroiled her in war with the United States. In 1869 the disestablishment of the Irish church was thrown as a sop to quiet the discontent; and in 1870 a Land Act, amended into ineffectiveness by the House of Lords, marked the first step in the legislation which culminated in Wyndham's Land Purchase Act of 1903.

On more constitutional lines than those followed by the Fenians, the first home-rule movement in Parliament began in 1871. At first this was largely an Ulster movement, and it was made possible by the granting of the franchise to workingmen living in the Parliamentary boroughs. The first Parliamentary leader of the movement was Isaac Bûtt. He was succeeded in 1880 by Charles Stuart Parnell, who had already proved his power by the introduction of obstructive tactics in the House of Commons, had won the confidence of the Fenian leaders and had identified himself with the Land League movement. The reply of the British government to the lawless tactics of the Land League was Gladstone's Land Act of 1881—the act which may be regarded as the real beginning of the long series of remedial measures passed to still the agrarian agitation which had kept Ireland in a constant turmoil. It was not until after the Reform Act of 1884 had enfranchised the working classes living outside the limits of the Parliamentary boroughs that the home rule question became a pressing one for the British Parliament. From 1885 to the present time Ireland has steadily elected four-fifths of her 103 members as Home Rulers, and these 81 to 85 members, repeatedly holding the balance of power in the House of Commons, have been able to decide the fate of governments. Since the Reform Act of

[1] In 1801, when the population of England was estimated at 14,000,000, Ireland had 8,000,000 inhabitants. In 1911 the population of England and Wales had increased to 36,000,000; that of Ireland had fallen to 4,382,000.

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1884 there have been eight general elections. In 1886, 1895 and 1900 the Conservatives obtained majorities over Liberals and Nationalists combined. In 1885, 1892, 1906, January, 1910, and December, 1910, the Liberals had the support of the majority elected to the House of Commons; but in one only of these elections—that of 1906—were the Liberals returned in such numbers as to make them independent of the support of Irish Nationalists.

In 1885, at the first general election at which the workingmen of Great Britain and Ireland were able to express their opinions throughout the constituencies, there were returned to Parliament 250 Conservatives, 335 Liberals and 85 Irish Nationalists. In the Parliament of 1880–1885, during the greater part of which the Liberals had been in office, the Irish had been inclined to act with the Conservatives. The Gladstone Cabinet had been defeated in June, 1885, nominally on the question of the duties on beer and spirits in the budget, but really because of the death of General Gordon at Khartoum and the conduct of affairs in the Soudan. Lord Salisbury was prime minister when the appeal was made to the new electorate in November, 1885, and in his famous speech at Newport, on October 7, 1885, he had made a definite bid for the Irish vote. The Liberal policy in Ireland had been a combination of repression and removal of grievances. Side by side with the Land Act, which was intended to secure to the tenant the value of his improvements and to fix the rents on a fair valuation of the landlord's property, the Liberals had passed a Coercion Act. This measure had been obstructed in the House of Commons by the Irish under the leadership of Parnell; and resentment against this drastic law, which is described by Lord Morley in his life of Gladstone as an act which "practically enabled the viceroy to lock up anybody he pleased and detain him as long as he pleased," was stronger than gratitude for the land legislation.

During the short-lived administration of Lord Salisbury, in 1885–86, an attempt was made to bind to the Conservative party in power the Irish Home Rulers who had acted with it in opposition. Lord Carnarvon, the new viceroy, definitely abjured coercion as a means of government and, as soon as he

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arrived in Ireland, entered into negotiations with Parnell. In the Newport speech, Lord Salisbury made a declaration of the policy of his party, which was taken by many to foreshadow some measure of home rule for Ireland. He stated that there were two reasons for not renewing the Coercion Act:

> We could not, and it would have done no good if we could. . . . To follow the extension of the franchise by coercion would have been a gross inconsistency. To show confidence by one act and the absence of confidence by a simultaneous act would be to stultify Parliament. Your inconsistency would have provoked such intense exasperation that it would have led to ten times more evil, ten times more resistance to the law than your crimes act could possibly have availed to check.

In this Newport speech there was a forecast at least of wide powers of local government for Ireland. In treating the question of extending English institutions to Ireland, Lord Salisbury touched upon the necessity of protection for the minority. His remedy was not the division of Ireland into small independent local governing areas. On this point he said:

> Local authorities are more exposed to the temptation of enabling the majority to be unjust to the minority when they obtain jurisdiction over a small area than is the case when the authority derives its sanction and extends its jurisdiction over a wider area. In a large central authority the wisdom of several parts of the country will correct the folly and mistakes of one.

In view of this pronouncement and of the policy of conciliation inaugurated in Ireland, there was some expectation that the Conservatives would continue to hold office by the help of the Irish Nationalists. There was, as we have seen, no majority for either party—Liberals, 335; Conservatives and Nationalists, 335—but, in a letter to Balfour of December 20, 1885, Gladstone offered his support if the Conservatives should undertake to devise a plan of government for Ireland. Lord Salisbury was too prudent to risk his political career by any such adventure, and the settlement of the Irish question was turned over to the Liberals. The defeat of the Conservative government did not come, however, on the Irish question, but on an amendment to

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the address in reply to the speech from the throne affecting the English rural laborer. The vote on this amendment was taken on January 27, 1886, and the division showed 252 for the government and 331 for the opposition—composed of 257 Liberals and 74 Irish Nationalists. By this time the Nationalist leaders had learned from Gladstone that he was willing to commit himself and his party to the introduction of a home-rule bill.

Two methods of meeting the Irish demand had been considered by Gladstone, repeal of the Act of Union and statutory home rule. There seems to have been a slight hesitation at first in his mind as to which of these plans it would be best to pursue; but in December, 1885, when there was still the possibility that home rule would be adopted as a Tory policy, Gladstone wrote to Lord Hartington that "a statutory basis seems to me better and safer than a revival of Grattan's Parliament." A statutory measure of home rule would leave the British Parliament still supreme and able to legislate for Ireland over the head of any Irish Parliament it might create. Repeal would have revived a condition of things under which the acts of the Irish Parliament could be disallowed by the crown on the advice of the ministers, but under which any alteration in the government of Ireland would have to be accomplished by the act of the Irish Parliament—the condition which had made union in 1800 possible only with the aid of unlimited bribery and corruption. From the time that Gladstone decided upon a home rule bill, no other method of granting self-government to Ireland has been under discussion; the supremacy of the Imperial Parliament has been an essential part of each successive proposal. In the bill of 1913 this principle is expressly set out in the first clause, which reads: "Notwithstanding the establishment of the Irish Parliament or anything contained in this Act, the supreme power and authority of the Parliament of the United Kingdom shall remain unaffected and undiminished over all persons, matters and things within His Majesty's Dominions." No such explicit statement appeared in the Home Rule Bill of 1886, but this bill never reached committee stage. In 1893 imperial supremacy was affirmed both in the preamble and in the body of the bill. Even without any specific reservation of

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supreme power, the creation of an Irish Parliament could not affect the complete legal supremacy of the imperial Parliament. The Irish Parliament would be the creature of the imperial Parliament, and it could be modified or extinguished by the act of the Parliament that created it. Since the demand for statutory home rule took the place of the demand for repeal of the Act of Union, it has been clear to the Irish leaders that an Irish Parliament would not be a coördinate legislature, united with Great Britain only by the link of the crown, but would be in the same position as any colonial Parliament.

It was at the end of January, 1886, that the Salisbury ministry resigned, and on February 1 Gladstone became prime minister with the definite understanding that he was to introduce a home-rule bill. Five prominent members of his previous cabinet refused office—Hartington, Derby, Northbrook, Goschen and Bright. Chamberlain waited until he had seen the draft of the bill before casting in his lot with the Unionists, but resigned in March, before the bill was made public. With his forces thus weakened, Gladstone introduced his first Home Rule Bill in the House of Commons on April 8, 1886. After four days of hot discussion, the bill was allowed to pass its first reading without division, and the second reading debate began on May 10. So great was the opposition offered to certain clauses of the bill by members of his own party that Gladstone offered to withdraw it and to bring forward an amended bill in the autumn session. This overture was refused, and the division was finally taken in the early morning of June 8. Gladstone was beaten by thirty votes—313 to 343—and as there was no possibility of getting a working majority for either Liberals or Conservatives, Parliament was dissolved. The general election which followed gave the Conservatives 316, the Liberal-Unionists 78, the Liberals 191 and the Irish Nationalists 85 seats. Conservatives and Unionists combined had thus a majority of 118 over Gladstone's party reinforced by the Nationalists.

For six years the question of home rule was in abeyance; but when the Parliament of 1886 came to an end in 1892, it was recognized that the general election must be fought largely,

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if not primarily, on this issue. Great difficulties surrounded the question. The Liberals were not in agreement as to the terms of a home-rule bill. Parnell's downfall and death had weakened the Nationalists and alienated many Liberals from the Irish cause. The Conservative government, moreover, spurred by its close association with the Liberal Unionists, had stolen much Liberal ammunition; it had reformed Irish county government in 1888, and it had attempted to settle the Irish land question by the acts of 1887 and 1891, which provided for the purchase by tenants of their holdings with the aid of government credit. The elections again placed the balance of power in the hands of the Irish Nationalists: Conservatives and Liberal Unionists, 315; Liberals, 274; Nationalists, 81. The support of the Nationalists was essential to a Liberal government, and the price of this support was Gladstone's second Home Rule Bill of 1893. This bill was introduced in the House of Commons on February 13, 1893. Its passage through the House of Commons occupied eighty-five sittings. Through all its stages it was piloted by the prime minister, who at eighty-three years of age showed marvelous energy and mental power in his management of the parliamentary proceedings, Second reading was carried on April 21, by a vote of 347 to 304, and the bill passed its final stage in the House of Commons on September 1 by a majority of thirty-four. Its career in the House of Lords was brief. Its second reading was moved by Earl Spencer on September 5, and, after three days of debate, it was rejected by a vote of 419 to 41. The Liberal government continued in office until June, 1895, Lord Rosebery taking Gladstone's place as prime minister in March, 1894. On the downfall of the Rosebery ministry, Lord Salisbury again took office, and the elections of 1895 put the Liberals in a minority which lasted until 1906.

Neither the general election of 1900 nor that of 1906 was fought on the home-rule question. In 1900 the dominant issue was the Boer War, and in 1906 it was understood that no home rule bill would be introduced by the Liberals, if they were given a majority, until after another general election. In 1906 only 158 Conservatives and Liberal Unionists were returned to Par-

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liament, and the Liberals had a majority of 186 over Conservatives and Irish Nationalists combined. The crisis over the budget of 1909 brought this Parliament to an end, and in the election of January, 1910, the Nationalists resumed their position as arbiters of the destinies of British governments: Conservatives and Liberal Unionists, 273; Liberals and Labor members, 315; Nationalists, 82. The work of this Parliament was first to pass the budget and then to settle the question of the Lords' veto. The Nationalists faithfully supported their Liberal allies throughout the memorable session of 1910, knowing that the reduction of the power of the House of Lords was even more essential for the success of home rule than it was for the carrying through of the other reforms in the Liberal program. A second general election was necessary before the House of Lords could be induced to perform the self-denying act of passing the Parliament Bill. This election was fought in December, 1910, and the result was to leave parties much as they were after the January election. Again the Nationalists held the balance of power in the House of Commons: Conservatives and Unionists, 272; Liberals and Labor members, 314; Nationalists, 84.

The time had now come for the Nationalists to claim the reward for their support of Liberal governments. The session of 1911 was devoted to the Parliament Bill and to Mr. Lloyd George's scheme for national insurance: but even before the opening of Parliament, in February, 1912, Mr. Churchill had made his memorable speech at Belfast, in which he outlined the intentions of the Liberal government in regard to the forthcoming Irish bill. The new bill was introduced in Parliament on April 11, and was vigorously debated before it was allowed to pass its first reading. Mr. Asquith made the introductory speech. He was followed by Sir Edward Carson, the spokesman of the Ulster Unionists, who strenuously opposed home rule for Ireland in general and the provisions outlined by Mr. Asquith in particular. Mr. John Redmond accepted the bill for the Nationalists. Mr. Ramsay McDonald gave the sanction of the Labor party to the new bill; he rejoiced in the prospect that the Irish workers in England would henceforth be free to

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vote for their own interests, instead of being constrained to consider only the interests of the home rule cause in Ireland. Viscount Castlereagh, recalling with pride the share of his family in bringing about the Union, claimed that there was no good reason for attempting to pass a home rule bill; he asserted that the results of the Union had been beneficial both to England and to Ireland, and that to grant home rule would simply mean that the old struggle of 1800 would have to be repeated. Mr. William O'Brien's criticism of the bill was directed against the financial clauses. He objected to a dual control over the Irish purse and asked for freedom for Ireland to raise and spend her own revenue.

The most notable speech on first reading, after that of the premier, was Mr. Balfour's. With his usual ability for seeing both sides of a question, Mr. Balfour criticized the bill as offering at the same time too much and too little. From the point of view of a thorough-going democrat, he asserted, the bill was a half measure, full of inconsistencies. It was also utterly unworkable. It was an attempt to bring about a federal union without federal machinery. A bill granting self-government to the Irish and yet withholding from them the essentials of self-government, removing the Irish from the sphere of legislation by the British Parliament and yet leaving Irish members at Westminster to vote on English and Scotch affairs, was "lop-sided federalism." Ireland either is or is not a separate nation, was his argument. If Ireland be a nation, what right has England to safeguards and supremacy? If Ireland be not a nation, why home rule at all? If she be a nation, the privileges and powers granted her are not nearly enough; if she be not a nation, they are far greater than ought to be conceded.

The debate was closed on April 16 by Mr. Birrell, the Irish secretary, who gave a brief review of the utter failure of England to govern Ireland. Eighty-six coercion acts, he told the House of Commons, had been asked by English governments from Parliament since the Union; and yet, in spite of this special legislation, the government had failed to keep order and peace in Ireland. Leave to introduce the bill was granted by a vote of 360 to 226. The motion for second reading was made

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on April 30. Speeches were made on both sides by nearly all the leading members of the House who had not spoken on first reading. There was another speech from Balfour, in which he criticized severely the reservation of certain services by the imperial government. He especially attacked the clauses of the bill dealing with the royal Irish constabulary. The Irish government was to be responsible for law and order in Ireland, and yet under the bill the government could not dismiss a single policeman or raise or lower the pay of a sergeant or a constable. The arguments based on the unwillingness of the Protestants of Ulster to come under an Irish Parliament were put forward by Sir Charles Beresford and by Mr. Bonar Law, the Conservative leader; they were answered, for the government, by Mr. Herbert Samuel, the postmaster-general, and by Sir Rufus Isaacs, the attorney-general. The debate was concluded by a short speech from Mr. Asquith, and the second reading was carried by a vote of 372 to 271. Committee stage lasted from June 11 to December 12; report stage from December 30 to January 13; and on January 16 the bill was sent to the House of Lords, after passing its third reading by a majority of 110. In order to make any headway with the bill it had been found necessary to use the closure freely. Out of the 1646 lines in the bill, 212 only were debated while 1434 were carried under closure without any opportunity for debate. The only amendments carried were those proposed by the government. Of these there were 143 : 84 at committee stage and 59 during report stage.

On one occasion during committee stage, on November 11, the Conservatives by a snap vote defeated the ministry and carried an amendment reducing the financial assistance which the Irish government was to receive from the imperial treasury. This amendment was carried by 22 votes, and, had the clause as amended remained part of the bill, it would have made the whole scheme unworkable. The following evening Mr. Asquith moved to rescind the vote; the speaker ruled that the motion, though without precedent, was in order; and then followed a wild scene of fury and disorder on the part of the opposition. The House of Commons was adjourned for several days, the

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cabinet and the speaker taking counsel as to how best to put the bill again into workable shape. Finally, the whole clause was voted down; a new clause, prepared by the government, was proposed in its place; and the incident ended without any result except a delay of a week in the proceedings on the bill.

Most of the amendments that were made in the bill at the instance of the government were trivial—little more than improvements in its wording. Some important modifications, however, were made in the financial clauses. There was also a change made in regard to the Irish Senate. In the bill as originally submitted, the Irish upper house was to be a nominated body, like the Senate of the Dominion of Canada, appointment resting originally with the imperial government and afterwards with the Irish executive. This constitution of the Senate, which was accepted by the Irish Nationalists and by the Labor members as preferable to election on a narrow franchise, was subsequently modified by the government. The statement concerning the change was made on October 30. In introducing the bill, Mr. Asquith had stated that in the view of the government the Senate should be a small body, in which adequate provision was to be made for the representation of minorities. It had then seemed to the government that nomination would be the best means of obtaining such representation. In June, however, a deputation representative of all parts of Ireland had pressed upon the prime minister the importance of introducing the proportional principle. In proposing this amendment, Mr. Asquith criticized the earlier scheme by referring to the experience of Canada, where the appointment of senators by the government had produced inconvenient results. Personally, Mr. Asquith said, he did not care what plan was chosen, so long as it seemed adapted to produce the desired result—the representation of minorities.

Another modification introduced into the bill gives the imperial government considerable leeway in regard to the date of setting up the Irish Parliament. Although it is expected that the bill will become law about May, 1914, the calling of the Irish Parliament into actual existence may be deferred until the summer of 1915. Under this arrangement the Irish members

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may keep their places in the British House of Commons for the full term of the present Parliament, and the elections for the English and Irish Parliaments may be held simultaneously after a dissolution, which must come at the latest in December, 1915, but which will probably come some months earlier. The reasons for such a postponement of the Irish elections are clear. The Liberal government would no longer have a safe majority if the Irish members were reduced from 103 to 42; and to put "the appointed day on and after which," according to clause 1 of the act, "there shall be in Ireland an Irish Parliament" immediately after the passage of the act would mean the precipitation of a general election in England.

Irish representation in the British Parliament was the greatest difficulty that Gladstone encountered in drawing up his Home Rule Bills of 1886 and 1893. According to the provisions of the earlier bill, Irish representation was to cease entirely, except in case there should be alterations or amendments proposed in the British Parliament to the Home Rule Act. This plan was approved by Parnell, who did not wish the ablest of his followers to be drawn out of the Irish into the imperial Parliament, and who also feared that the presence of Irishmen at Westminster, voting on English and Scotch affairs, would encourage interference by the British Parliament in Irish affairs. It was opposed by the Roman Catholics in England, who saw in the disappearance of the Irish members from the British Parliament a weakening of Catholic influence in Great Britain. Their chief spokesman was Cardinal Manning. It was also opposed by the Scotch members, who feared that exclusion of Irish members would be a precedent for excluding them also from a share in the imperial government if home rule should be established for Scotland. It was opposed, finally, by English Conservatives and Unionists, who saw in it a menace to the integrity of the British empire. The bill of 1893 provided that Ireland should have 80 members in the British Parliament, instead of the 103 to which she is entitled while the Union lasts; and, in the form in which it was first introduced, it contained also what was known as the "in and out" clause, by which the Irish representatives were not to have the right to vote on any motions or

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bills expressly confined to England or Scotland. As soon as this clause began to be debated, it was found to be encompassed by so many difficulties that it was dropped.

The inconsistencies involved in the retention of Irish representatives in a Parliament which is local as well as imperial were recognized by Mr. Asquith when he introduced the Home Rule Bill in 1912. In the plan proposed, which provides for 42 Irish members, he frankly acknowledged that there were defects: it was a provisional compromise until such time as a complete system of local home rule could be established, with a central Parliament for the whole empire. The justification for the provisional retention of Irish members he found in the fact that the imperial House of Commons would continue to levy taxes on Ireland and that the British government for some years to come would be responsible for the administration of the reserved services. The diminution of the number he defended on the ground that it would hardly be just that Ireland should retain a representation large enough to decide the fate of British governments. The 42 Irish members, eight of whom would probably be Unionists, would rarely be able to turn the scale of political fortune between the great British parties. There was much opposition to this plan. It was argued that the 42 members would be too few really to influence legislation, if Parliament wished to interfere with Ireland, and that the maintenance of this number of seats would simply give places, with salaries of £400 a year, to a number of Irish politicians. In spite of these objections, the plan of a greatly reduced Irish representation at Westminster was on the whole well received; and this part of the bill passed, not without attack on the part of their reconcilables, but with the general acquiescence of both British and Irish.

As regards the composition of the Irish House of Commons, the present Home Rule Bill is a compromise between the bill of 1886 and that of 1893. According to clause 9, the House is to consist of 164 members, instead of 204 as in the first bill or 103 as in the second. The franchise is to remain for the present unchanged: nothing can be done by the Irish Parliament in the way of extension of the franchise or of electoral reform

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until three years from the passage of the act. Strong objections were raised to this provision. Plural voting and university representation are particularly obnoxious to the Labor members and to the more democratic wing of the Liberal party; and it was to sweep away these and other inconsistencies and abuses of the existing electoral system that the Asquith government introduced the Franchise bill of 1913—the bill that was wrecked on the rocks of woman suffrage. The only explanation of the retention of these anomalies in the Irish bill is that the government hoped thereby to placate in some degree the Ulster minority, since the advantages of plural voting and of university representation accrue chiefly to the Protestant section of the Irish people. In case of disagreement between the Irish House of Commons and the Senate, it is provided that in the third session of disagreement the House and Senate are to convene in joint session and a majority vote of all the members present is then to decide the fate of the measure. As the Senate is to consist of only 40 members, a large popular majority in the House of Commons would easily override a hostile majority in the upper House. A similar provision was incorporated in both of Gladstone's Home Rule Bills.

The restrictions on the power of the Irish Parliament are much the same as in the former bills. The Irish Parliament may not legislate on matters concerning the crown, war or peace, the naval or military forces, treaties, titles, treason, foreign trade (except in so far as power is given to vary a customs tax already levied by the imperial Parliament), coinage, trademarks or the reserved services. The last item includes the administration of old-age pensions and of the National Insurance Act, the post-office services, the collection of taxes, the royal Irish constabulary, and loans made in connection with the Irish Land Acts. There is also an express prohibition of any legislation establishing or endowing any religion, or giving any preference or privilege on account of religious belief or ecclesiastical status, or making any religious ceremony a condition of the validity of any marriage. In this respect the bill of 1912 follows with slight variation the bills of 1886 and 1893. In each successive bill the safeguards for the minority have been some-

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what enlarged and strengthened. Following the provisions of the former bills and also the precedents of the self-governing colonies, the Irish cabinet is to be responsible to the Irish legislature, and the royal assent to bills may be postponed by the lord lieutenant "for such period as His Majesty may direct."

There can be no doubt that the successful working of home-rule, as regards both England and Ireland, depends largely upon the financial arrangements between the two countries. At the time of the Union, Ireland was lightly taxed, as compared with England, although the burden was quite as heavy as could be borne by a country which had been so greatly impoverished by the crushing out of her industries and the destruction of her external trade. During the years of Grattan's Parliament, when home industries were being encouraged by bounties, the revenue rose from a little over one million sterling in 1783 to three millions sterling in 1800. During this time Ireland was contributing towards the expenditures of Great Britain—swelled by the Napoleonic Wars—from three and a half to four and a half millions sterling, and was incurring a debt which in 1800 stood at £32,215,223. Under the act of Union, Ireland's fiscal system was left separate, but it was provided that for twenty years Ireland should contribute towards imperial expenses in the proportion of two to fifteen. This contribution is now acknowledged to have been grossly unfair to Ireland, especially as no account was taken of the annual tribute of over £4,000,000 paid in rent to absentee landlords. During the fifteen years of war that followed the Union, Ireland, in order to pay her imperial contribution, was forced to increase her debt from £32,000,000 to £112,000,000, and in 1815 only 49 per cent of Irish expenditure was paid for out of revenue. To remedy this ruinous condition of Irish finance, an act was passed in 1817 amalgamating the British and Irish exchequers, but not as yet equalizing the taxes in Great Britain and Ireland.

Between 1817 and 1860 taxes in Ireland were gradually put on the British level, the most important changes being made between 1850 and 1860. The duties on tobacco and spirits were more than quadrupled, and the income tax was extended

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to Ireland. In the years from 1853 to 1860 the taxation of Ireland was increased by £2,500,000 a year, and this at a time when the population had fallen from eight millions in 1841 to six millions in 1861. In the Home Rule Bill of 1886, Gladstone proposed an annual contribution from Ireland, to remain unchanged for thirty years, and to be fixed at one-fifteenth, or just one-half of the contribution fixed by Pitt at the time of the Union. In the bill of 1893 the Irish contribution to imperial revenues was one-third of her true revenue. Out of this, however, the charges for the Irish police and certain temporary subsidies were to be paid. The financial provisions of both the Gladstone bills were drafted without any accurate data concerning Irish taxation and Irish contributions. In order to obtain such data, a royal commission, under the presidency of Mr. Hugh Childers, was appointed in 1894 to inquire into the financial relations between Great Britain and Ireland. So far as the report of the commission was unanimous, it showed that in 1893–94 Ireland was contributing £7,568,649—between one-eleventh and one-twelfth of the British revenue—while if she had been taxed in proportion to her capacity her contribution would have been only £4,842,781; and that therefore there was an excess payment by Ireland of two and three-quarters millions sterling. The commissioners added that "the identity of rates of taxation does not necessarily involve equality of burdens." This statement, which has been much controverted, applies not only to Ireland as a country, but also to the individuals paying the taxes. Irish revenue is raised chiefly by specific duties on tea, tobacco and spirits; these articles are all largely consumed by the poor, and the rates of wages and the monetary returns from sales of produce have always been much lower in Ireland than in Great Britain; accordingly the sixpence or eightpence a pound on tea, for example, imposes a greater sacrifice upon the Irish laborer than upon the worker in Great Britain.

Not only was Ireland's contribution to imperial taxation in 1894 disproportionate, but in the same year the administration of Ireland was just about twice as costly in proportion to her population as was the administration of Great Britain—an evil that has been greatly aggravated since the report of the royal

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commission. The large expenditures on Ireland were then due to the constant need for the repression of political crime, and to the fact that the scale of expenditure—notably the salaries of the lord lieutenant, judges and other officials—was regulated by British, not by Irish conditions. According to a table, presented by Professor Oldham of Cambridge University at the meeting of the British Association in 1911, during the years from 1809 to 1911 Ireland contributed £329,000,000 to Great Britain. The largest contribution was in 1860, when it was £5,500,000. In 1890, it had fallen to two millions sterling, and from 1890 onward the expenditures on Ireland have risen so enormously that there is now a deficit of £1,250,000 each year, although Ireland is still overtaxed in proportion to her capacity by over two millions sterling. In the year 1910–11 the total government expenditure in Ireland was £11,344,500 or £2 11*s* 9*d* per head; while the average cost of government to each Englishman was only £1 9*s* 2*d*. The recent increases of expenditure in Ireland are largely due to old-age pensions, which were fixed on a scale suitable to England and somewhat excessive for a poor country like Ireland; to land purchase; to education, to post-office expenditures, which in Ireland exceed receipts, and to agricultural development.

Before drafting the Home Rule Bill, the Asquith Government appointed a departmental committee to inquire into the present condition of Irish finances and to make recommendations regarding financial arrangements under home-rule. In his introductory speech on the bill, Mr. Asquith told the House of Commons that the government had not been able to adopt the scheme recommended by the committee, but that the facts presented in the report had been of great value in drawing up the financial sections of the bill. Roughly these facts are that, while in 1895–96 the true Irish revenue was about eight millions sterling and the expenditures on Irish services about six millions, in 1912–13 the Irish revenue, according to the estimates, will be about £10,840,000 and the Irish expenditures £12,350,000.

If the Union continues, there is no prospect of any improvement in Irish finance. England has adopted the plan of quiet-

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ing Irish discontent by making enormous expenditures in Ireland; and from the Conservative side of the House of Commons there is a definite promise of large increases in these expenditures if the Unionists should come into power before the Home Rule Bill can become law. Even under the present plan of home-rule it will be impossible for Ireland at once to reduce the excessive expenditures on many of her services. The liabilities for land purchase cannot be removed. All judges and civil servants in Ireland are to receive the same salaries and to be entitled to the same pensions under home-rule that they now enjoy. The Irish royal constabulary must be continued, and no economies can be effected in this extremely expensive item of Irish government. The collection of taxes is left in the hands of the imperial government although it will be a charge against Irish revenues; and no changes can be made in regard to post-office services, which at the present time cost much more than the revenue they bring in. Still, the financial sections of the Asquith bill tend to encourage economy by making it of some advantage to Ireland. Since 1817 there has been no relation between the revenue raised in Ireland and the cost of Irish government. There was therefore no inducement to any Irishman to demand economy in government. During the whole of the nineteenth century Ireland was paying tribute to England out of taxation in the levying of which she had practically no voice. In recent years England has been pauperizing Ireland by subsidies, although even yet the rate of taxation in Ireland is far too high for so poor a country.

The financial provisions of the Asquith Home Rule Bill are extremely intricate. Ireland will have far less control of its own taxation than has any of the oversea self-governing dominions. The Irish Parliament will be responsible for the cost of Irish services, except those reserved to the imperial government. The imperial Parliament will continue to tax the whole of the United Kingdom, and the collection of all taxes forms one of the reserved services. In the first years of home-rule, the Irish revenue will not be dependent directly upon Irish taxation; there will be transferred to Ireland each year a sum representing the cost, as determined by a body called the Joint Ex-

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chequer Board, of all the Irish services at the time of the passage of the act, with the exception of the post-office, the revenues of which will go directly into the Irish exchequer. These two sources of income—"the transferred sum" and the postal revenues—will hardly be enough to cover Irish needs, and the bill provides for an additional amount of £500,000 to be transferred from the Imperial exchequer in order to assist the Irish in setting up their government. After a short term of years, this British subsidy is to be diminished by £50,000 each year until it shall be reduced to £200,000. If the Irish government wishes to spend more, it must raise the further amount by additional taxation; if it can succeed in governing the country more economically, the Irish Parliament can reduce taxation, and "the transferred sum" will be correspondingly reduced. The taxes levied by the Irish Parliament will be collected by the imperial government. These taxes may be either additions to customs or to excise duties or new forms of taxation; but customs duties can be imposed only on articles already dutiable under imperial tariffs, and the extra customs duties must not exceed ten per cent of the previous duties. Stamp duties cannot be altered by the Irish Parliament. There is no restriction on the increase that may be made in excise duties; but on income taxes and death duties the increases are limited to ten per cent. When he introduced the bill, Mr. Asquith looked forward to a natural growth in Irish revenue which would diminish and finally extinguish the deficit.

When the prime minister explained the bill to the House of Commons, a rough balance sheet of Irish revenue and expenditure was submitted. It was divided into an Irish account and an imperial account. The Irish account included, as receipts, the transferred sum of £6,350,000, and the post-office receipts of £1,350,000; altogether, £7,700,000. The expenditures, as based on the current year, were: Irish services, excluding the reserved services, £5,600,000, and post-office expenditures, £1,600,000—total, £7,200,000—thus allowing a margin of £500,000. The imperial balance sheet showed Irish revenue (with the exception of the post-office) £9,285,000, say, £9,500,000; expenditures, £11,630,000—leaving a deficit of

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almost exactly £2,000,000. The items of the estimated expenditures were: transferred sum, £6,500,000; old-age pensions, £2,660,000; national insurance, £190,000; land purchase, £616,000; police, £1,380,000; and collection of revenue, £300,000.

There can be no contribution from Ireland at present to imperial revenues. If at any time in the future Irish revenues shall exceed the cost of Irish government, including the reserved services, there will be a revision of the financial provisions, with a view to securing the proper contribution from Ireland towards the common expenditures of the United Kingdom. Such a rearrangement will be accompanied by an extension of the powers of the Irish Parliament in regard to the collection of taxes and general financial control; so that the price of fuller self-government is to be the bearing by Ireland of her own financial burdens and the making of some contribution to imperial expenditures.

In considering the apparent liberality of the British government several points must be remembered. In the first place, the deficit already exists, and neither Mr. Asquith nor any other authority on Irish government and finance has any hope that it will diminish under the Union. On the contrary, it is obvious that, under existing circumstances, the deficit in Irish revenues, as compared with expenditures, must increase, and Ireland must become a heavier burden on the imperial exchequer. In the second place, it must be recalled that the enormous cost of Irish government as at present conducted is due to British enactments, and that Ireland is not to be free to reduce any considerable part of this expenditure, but must continue it—or have it continued for her as a reserved service—on exactly the same scale as at present.

Time only can show whether or not Irish home rule, under the conditions and limitations laid down in the Home Rule Bill of 1913, will be a success. The position of Ireland will be in no way comparable with that of Canada, Australia or South Africa. After representative and responsible government was granted to Canada, she was left free to regulate her own trade and commerce, to levy her own taxes and to collect her own

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duties and imposts. No such restrictions were laid upon her as are imposed upon Ireland, and she was left to fight her own way to economic independence and national prosperity. Ireland will still be tied hand and foot by restrictions on her power of levying taxes, of controlling oversea trade, of deciding even such domestic matters as land legislation, old-age pensions and national insurance. Whether it is possible that a nation held in leading strings will develop energy, initiative and statesmanship remains to be seen. In his excellent analysis of the position of Ireland and of the conditions essential to the success of home rule for Ireland, Mr. Childers writes: "I myself venture to lay down only the broad proposition that to the last farthing Irish revenue must govern and limit Irish expenditure. For any hardship entailed in achieving that aim Ireland will find superabundant compensation in the moral independence which is the foundation of national welfare." And again, in discussing the plan of handing over to Ireland a lump sum from the imperial exchequer (the plan adopted in Mr. Asquith's bill), Mr. Childers says:

> It is not Home Rule. It annihilates the responsibility of Ireland for her own fortunes, and is indeed altogether incompatible with what we know as responsible government. . . . Nothing could be more cruel to Ireland than to give her a fictitious financial freedom, and then to complain that she did not use it well.[1]

The scheme incorporated in the Asquith Home Rule Bill offers one advantage that was not contemplated by Mr. Childers. It offers to Ireland some possibility of reducing expenditures and thus decreasing taxation. But Ireland is not given the fiscal independence that is essential to real home rule; and if the new Irish government, which the bill aims to set up, fails of the high hopes of its advocates and supporters, its failure will probably be attributable to the fact that the degree of home rule granted to her was far short of the measure of home rule that England has granted to each of her oversea dominions.

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[1] Erskine Childers, The Framework of Home Rule (London, 1912), p. 304.

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REVIEWS.

Sociology in its Psychological Aspects. By CHARLES A. ELLWOOD. New York, D. Appleton and Company, 1912.—xiv, 417 pp.

This book is a summary of the progress of the study of the mental side of social life during the past two decades. It is written by a man who has himself made substantial contributions to that study. He has a definite social theory of his own, but in expounding and defending it he has taken occasion to contrast with it virtually the entire literature of psychological sociology. He has presented the theories of other writers fairly and clearly. The book is a monument to the author's erudition, and it is to be commended to the student as an invaluable guide to the literature of the subject. Full footnotes and a good index increase its utility. Here a single criticism may be offered: Professor Ellwood's modesty has prevented the inclusion of his own name in the index.

The author's point of view is one that lends itself particularly well to the comparative treatment of theories. His discussion of other men's doctrines is not alone for the sake of contrast; it is largely for the sake of inclusion. He views society as a functional unity of interacting individuals, and he interprets social processes and institutions in consideration of their function in promoting the collective safety and advantage. His claim for this viewpoint is that it is *synthetic:* that it enables him to weave together many opposing one-sided theories in a fashion that is more than eclectic. The claim seems well justified. Imitation, sympathy, consciousness of kind, economic determinism, intellectualism—these and other interpretations of society are accorded recognition, and the factor stressed by each is interpreted and evaluated with regard to its function in the collective life process. It may be noted that Professor Ellwood is the first, so far as the reviewer is aware, to apply Professor John Dewey's functional viewpoint in psychology to the interpretation of social phenomena.[1] Not even a functional theory, however, tells the whole story. There is a spilling-over of social phenomena from the confines even of this theory. Nowhere in nature and certainly not in society, does a process ordinarily

[1] *Cf.* Ellwood, Some Prolegomena to Social Psychology (Chicago, 1901). Functional interpretations on the basis of biological analogies are, of course, much older.

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exhaust itself in its function. This fact the author recognizes (page 195) in general terms but sometimes forgets in particular cases. Thus it is surely an exaggeration to say: "The child's heredity, birth, care and education are the supreme concern of church and state as well as of the home, and the sooner this is recognized the better" (page 130). This passage may be regarded as hortatory rather than descriptive, but if so, the reviewer would criticize it even on functional grounds. And the functional account of the sex instinct surely does not exhaust its social significance. But the functional view-point clearly furnishes the best basis for a synthetic theory.

A number of chapters are given to methodology. Sociologists have been much occupied with this problem, and the book would not be a faithful compendium if these chapters were omitted. It would, however, be more readable. But the fault is with the science rather than with the author. Sociology today is still too largely a schematism. Neither ethics nor politics nor economics has anything like the high proportion of schemata to doctrine that is found in sociological literature. Except as schematism can be used for the discovery of new and significant phenomena and for the better ordering of the old, it is dead weight. Much of sociological schematizing has been just for the love of the thing, without any reference to its utility. And even when the pragmatic character of methodology is kept in mind—as it is by Professor Ellwood—one wonders how far it is worth while to elaborate the theory of method so much in advance of its application. The practical exigencies of concrete problems will assuredly make much of the work useless. Perhaps the greatest service of the sociological methodologist has been in making economists, political scientists and students of ethics self-conscious on this point; and these chapters in Professor Ellwood's book may be especially recommended to students in the allied sciences.

The book contains an admirable summary of modern doctrine concerning the psychological questions that are of most importance to the social sciences. So much attention has been given to this that Professor Patten has suggested that the book be renamed "The Sociological Interpretation of Psychology." The reviewer does not regret that so much space has been given to these topics, but he does regret that they have crowded out a more concrete treatment of the doctrines of what are more properly called social psychology or, as Professor Ellwood prefers to call it, psychological sociology. Too many important doctrines are expounded in highly abstract terms, with little illustration. But the problem of proportion is not an easy one to solve.

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The least satisfactory chapter is that on the theory of "social forces." Professor Ellwood agrees with Professor Hayes in surrendering the idea of social forces, but he continues to use the term, robbed of its content. By social forces he means merely *causes* affecting social phenomena, whatever their character. The reviewer believes that the author has needlessly shrunk from carrying out the implications of his own doctrines. The functional view of mind, and of a social mind, is essentially congenial to the notion of social forces, if that notion be rightly interpreted. The social mind at work, doing things in the control and guidance of the social life—how shall this notion be made definite, and how shall the various elements in the social mind be compared with each other in quantitative terms as to the amount of work they do? The economist has long handled this problem in quantitative terms, and the conception of the equilibration of economic values—conceived after the analogy of physical forces—has given the clue. The notion can be generalized to include law, morals and other social values, and the conception of a general equilibrium among all types of social forces can be worked out.[1] The limitations of the analogy must, of course, be kept in mind. It may be noted, further, that this conception of social forces, as essentially the result of the interaction of many different types of processes in the minds of many different individuals, seems to meet Professor Hayes's objection to that concept of social forces which contents itself with specific types of activities in the minds of single individuals, neglecting their interactions, and the further objection of the same writer that the social forces have usually been conceived as explanations rather than as problems.[2]

It suffices to mention a few excellent points of detail, out of the many that the book contains. The theory of revolutions, the discussion of the relations of imitation, suggestion and sympathy (page 293), the critique of economic determinism and the correction of the extreme anti-intellectualistic tendency in sociology (page 277) may be mentioned as especially significant contributions to the detailed doctrine of sociology. The book may be justly described as original, scholarly and judicious.

B. M. ANDERSON, JR.

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[1] The reviewer has elsewhere elaborated these notions; *cf.* Social Value (Boston, 1911). *Cf.* also Höffding, Problems of Philosophy, and Dewey, Studies in Logical Theory, pp. 328, note, and 330, for the notion of "psychic energy."

[2] *Cf.* Hayes, "The Social Forces Error," and the discussion by Professors Small, Ross and others, in the *American Journal of Sociology*, vol. xvi, pp. 613 *et seq.*

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Science and Religion in Contemporary Philosophy. By ÉMILE BOUTROUX. New York, The Macmillan Company, 1911.—vi, 400 pp.

If the history of a period must be cast in terms of its *Zeitgeist*, one dominant note in the discord of ideas which make up our present pluralistic outlook is that which forms the subject of this book. It is, therefore, a matter which cannot be ignored in any historical survey of contemporary social forces. Where among all the intellectual stimuli which force a modification of social outlook can one find more potent forces than those represented in this survey—Comte, Spencer, Haeckel, Ritschl, James, Durkheim and sociologists and psychologists of the more recent schools? From one point of view we have here the philosophical working-over of the whole biological problem, with the purpose of discovering how much or how little it justifies the presuppositions of religion. There is, therefore, a social as well as an individual medium to be analyzed; and while psychology slowly works itself into a sociological setting, philosophy moves back to a vantage-point to see the process as a whole. This is just what the historian must do; and such a careful analysis as Professor Boutroux offers us in this volume should be digested by any historian who attempts to present a general view of the modern social outlook.

The author prefaces his survey with a sketch of the mediæval, rationalist and romanticist attitudes. Then he divides the recent field into two large groups, the naturalistic and the spiritualistic. Comte, Spencer and Haeckel dominate the former. Ritschl and James are two divergent types of the latter. Then comes the summing-up in a criticism which culminates with the statement that psychology is powerless to explain the feeling of religious obligation while sociology fails to handle the growingly individual character of religious ideals. This is also the final conclusion of the book; and the survey of "spiritualistic" philosophy, which forms the second section of the volume, simply strengthens this trend of thought. It is interesting, however, to see how an emphasis on faith and pragmatism can lead to a doctrine of vitalism fundamentally the same as that of Bergson. As Crawley has maintained, Boutroux holds that religion "lies at the root of human life" and "offers a richer life than purely spontaneous or even intellectual life: it constitutes, so to speak, a synthesis . . . of instinct and intellect, and . . . possesses a creative power which separate action could not yield" (page 378). Its seat is the conscience, which is the inward life (page 388). Evidently we shall need a new definition of

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conscience which will be acceptable to sociology, if philosophy can show the spirit gaining its liberty by an *élan vital*, and in that struggle for self-realization developing a "faith in duty" which is religion.

J. T. SHOTWELL.

The Holy Christian Church. By R. M. JOHNSTON. Boston and New York, Houghton Mifflin Company, 1912.—xx, 331 pp.

This is less a formal and detailed history of Christianity than a stimulating summary of points of view and conclusions of recent investigations. The boldest invasions of comparative religion and criticism are given with suggestive clarity. But it is more than a compendium of conclusions; it is a thoughtful and original synthesis, covering the elements of Christian faith, thrown on the background of a wide survey of the antique world. As for the doctrines themselves, Professor Johnston views the evolution of dogma from the standpoint of the philosophy of James and Bergson. In contrast with the dynamic quality of life and the variant pressures which make for sacredness and religious power, the author shows the static mould of theological thought, based fundamentally upon Greek concepts, and of ecclesiastical organization. The contrast is real and the implications inevitable. With the new consciousness of to-day, intuitively aware of that change which is the essence of our being, we are assisting at the decline of the church! The author does not hesitate to present his interpretation in straightforward form, and is not lacking in courage.

It is almost inevitable that in so broad a field there should be places where one might object to the author's sweeping characterizations, such as his insistence upon the growth of antique slavery and his identification of the cult of the Virgin with that of Cybele, and that there should be some slips, such as the attribution of the *taurobolium* to Mithras; but a more serious fault lies in the working up of historical material out of sources which the author himself questions. Such sources have played their own creative rôle in the history of the church to be sure, and a modern discovery of their illegitimacy does not permit the historian to dismiss them from his narrative; but they should never lose the flavor of fiction. For instance, the reader is warned that the incident of Jesus and the woman taken in adultery is not in the best manuscripts, yet it is treated as "the most convincing and greatest of his miracles." This is not exactly what the author meant. He wished to show how perfectly the incident illustrated the character of the Jesus of Christian belief; *se non e vero e ben trovato.*

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But a keen artistic sense of the situation got the upper hand and left the wording free for misunderstanding. This is to be regretted in a book which is bound to be the object of attack; for the unsympathetic critic can make sufficient capital out of it to obscure the merits of the book as a whole. In style one finds in it, as in all of Professor Johnston's works, expert and deft literary turns, interesting though compressed narrative and a direction of energy upon crucial points which brings both lucidity and force.

J. T. S.

Life in the Roman World of Nero and St. Paul. By T. G. TUCKER. New York, The Macmillan Company, 1910.—xix, 453 pp.

This is a companion volume to the same writer's *Life in Ancient Athens*, and, like it, is intended for the general reader. The author has endeavored "to represent as faithfully as possible the Age of Nero, and nowhere is it implied that what is true for that age is necessarily as true for any other. The reader who is not a special student of history or antiquities is perhaps as often confused by descriptions of ancient life which cover too many generations as by those which include too much detail" (preface, pages vii, viii). By judicious elimination and by vivid and graphic presentation the book is intended to "help the general reader to visualize the contemporary Roman as a human being." The author has aimed to avoid the exaggerations of the Roman satirist and moralist, to correct the attitude of those who know this period only through the medium of the Acts of the Apostles, and to make it more than a treatise on Roman antiquities.

While the main interest of the book centers in the Rome of Nero, the broader viewpoint is rightly and consistently taken that "life in the Roman world of Nero" is not the same thing as "life in ancient Rome" at the same date, and that it is quite impossible to realize Rome, its civilization and the meaning of its monuments, unless we first obtain some general comprehension of the Empire. With this in mind, the author devotes the first six chapters of the book to a lucid and concise survey of the Roman Empire, its extent, its population, its communications by land and sea, its government and administration. To these should be added chapters xviii and xix, dealing respectively with the Roman army and the Roman state religion. Some one hundred and fifty pages out of a total of four hundred and fifty, *i. e.* about one-third of the book, thus provide the background and the larger setting for a picture of the life in the imperial city itself. While this

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is intended by analogy to apply also to "those parts of the Empire which were either fairly romanized or else contained a large number of resident Romans" (page 260), the major part of the book deals with private and public life at Rome.

Beginning with a survey of "Rome, the Imperial City," its streets and its public buildings, the various types of Roman house *etc.*—the author presents in graphic fashion, first, a sketch of a Roman aristocrat's day. This is followed by a chapter on the life of the middle and lower classes, in which the meagre and biased allusions of the Roman writers are supplemented and corrected by archæological evidence (taken largely from Pompeii). In logical order the author discusses in successive chapters the Roman home, Roman education, the career of the Roman citizen in the army and in the public service, the place of religion, society and culture in the life of the average Roman, and finally "the last scene," Roman burial and burial customs.

There are some excellent remarks on the attitude of the Roman government towards and the relation of Roman religion to Christianity (though perhaps too little is made of the Oriental religions and too much emphasis is placed on philosophy, especially Epicureanism), on the Roman feeling for nature (page 175 *et seq.*), on the question of the unemployed and the relation of free to slave labor (page 244 *et seq.*). Pages 73 and 74 present some excellent and sane estimates of the individual emperors of the Early Empire.

Within the limitations set for and by himself, the author has done his work well, though there are occasional lapses in style; and the book should help to accomplish its author's purpose—to interest the general reader and to teach him to appreciate and "to feel in ancient life and thought." Some one hundred and twenty-five illustrations and several maps and plans add to the value of the book.

R. F. SCHOLZ.

UNIVERSITY OF CALIFORNIA.

The Franco-Prussian War and its Hidden Causes. By ÉMILE OLLIVIER. Translated by GEORGE BURNHAM IVES. Boston, Little, Brown & Co., 1912.—xxxvii, 520 pp.

Of all those who were crushed by the overthrow of the Second Empire, two alone survive, the Empress Eugenie and Émile Ollivier, the head of the ill-fated ministry from January to August, 1870. The latter, at eighty-seven years of age, is just finishing a fifteen volume history of the Liberal Empire. Too much cannot be said in

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praise of Mr. Ives's work in translating the gist of that ponderous work, following a resumé prepared by M. Ollivier and covering the Ollivier ministry with special reference to the diplomatic and cabinet activity leading to the Franco-Prussian war. Mr. Ives has done more, for he has translated and inserted as notes many essential paragraphs selected from the larger work and has added numerous appendices, including source and secondary material not elsewhere gathered together in one volume. The conception and execution of the volume are most praiseworthy.

As to the substance of the volume, it reveals no hidden causes of the Franco-Prussian war. Every prominent Frenchman connected with those disastrous times has published his memoirs, many of them furnished with contemporary dispatches and documents, and there is a considerable literature of an autobiographical kind from the German side. This particular volume can therefore add nothing strikingly new to what is already known. It is M. Ollivier's attempt to lay all the blame on Bismarck, the arch-conspirator, and to show that the author was not responsible for the mistakes of the Napoleonic empire in the crisis nor even cognizant of some of the important steps taken by his colleagues and Napoleon III. It is not history, in the sense in which the author would have us accept it; it is more in the nature of memoirs and to be used with the same degree of caution that is usually applied to sources of this kind. No one could judge Bismarck or M. Ollivier or Napoleon III on the history of the months between January and July, 1870, or on the basis of the Hohenzollern candidature or the Ems telegram. One must begin at least at 1866, or better yet at 1806, if he would explain the causes of the Franco-Prussian war.

As to M. Ollivier's qualifications to deal with the embarrassing situation into which Bismarck forced the French by the Hohenzollern candidature, two small points may be noted as significant. When the news came that the Hohenzollern prince had declined, and the whole situation was, for the time at least, in the French hands, Thiers, passing through the hall of the Chamber of Deputies, turned to Ollivier and warned him: "Now you must keep calm." The other is that in the larger work M. Ollivier devotes several pages to citations of definitions of the word *leger*, in order to show that Littré and all the lexicographers bear out his explanation of his famous phrase: "We enter on this war with a light heart." It is his contention that this meant "without sense of moral responsibility," and that this meaning was clearly indicated in the ensuing paragraph of his speech. One rises from reading the volume, even with all its intense human interest, with

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a feeling that Bismarck was dealing with realities and that M. Ollivier was—and still is—dealing with words.

In view of the relations existing between Prussia and France after Königgrätz, such a defence as M. Ollivier presents, even if it did not contain errors and misstatements, is a confession of weakness; and it leaves the January ministry and Napoleon condemned out of their own mouths. Disorganized finances, half-executed political and military reforms, hoped for but unconcluded alliances, confidence born of ignorance and misinformation, inconsequence in policy and indiscretion in utterance—all are revealed in what is meant as a defence. Bismarck was probably as crafty and unscrupulous as he is here represented; but he was master of himself and of every force necessary to the success of a cause infinitely nobler than any represented by the decadent empire of the third Napoleon.

One can not close the reading of such a book without raising the query already often propounded: why, since every leading actor in the tragedy has published his memoirs, are the archives not opened and controversy brought to an end?

Guy Stanton Ford.

University of Illinois.

Les Déplacements de souveraineté en Italie pendant les guerres du xviii^e siècle. By Irenée Lameire. Paris, A. Rousseau, 1911.—viii, 538 pp.

Following his monumental studies on the theory of conquest into the Italy of the eighteenth century, M. Lameire finds himself in the presence of facts so varied and conflicting that no adequate synthetic principle has been found for treating them. Those who have felt in his preceding volumes a similar difficulty will find their problem not much simplified in this. Granting that the work is "more for the study of facts than the study of doctrines," one is inclined to ask of the author exactly from what point of view the facts are to be studied; especially as he, who may be presumed to have studied the facts in all their possible bearings, confesses at the outset that his own point of view, that of constructing a "theory of conquest," is somewhat sterile in results. Certain it is that if M. Lameire is intent on evolving such a theory, the most effective system of documentation is to isolate those cases which throw the theory into clearest light. To cite his papers *seriatim* from archive to archive, from bundle to bundle, can result only in a surplusage that is oppressive; and to leave them, as he has

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done, practically without comment, is to present them simply as raw material with the critical analysis still to be performed. It would seem that in digesting the remarkably rich collections in this work, two questions might be held in mind: what principles of international law guided the conquerer in the administration of acquired territory; and then, what effect, if any, did the legislation made during such occupations, have on the common law governing the ordinary life of the conquered territory. Perhaps, in dealing with this first question, which seems to have been the only one that concerns M. Lameire, the author has been too modest in estimating his own results, even though he has been over-generous in the help he has given the reader in connecting his lucid prèface with the abundance of documents that follow. For the study of the second his wide collations have a positive value which still remains undeveloped.

In the documents themselves and in the translations of them, there are frequent errors of palæography and of language, which the author can easily remedy with a little more care in reading. For example, on pages 119–120 we find: "la science peut avoir beaucoup d'avantages pour le bon ordre": "la di loro *specienza* (*sic*) ha per essere di vantaggio al buon ordine." The correction to *sperienza* is apparent. On page 60, for "la impotenza per *conjure* le carichi ordinati" read, of course, *conpire*. On page 140, for "disposti a darvene quelle riprove che con li atti continuati del *nro atlacto* (*sic*) alla nra corona" read rather *vro attacto*. On page 106: *bosinate* means "uproar." On page 63: *circolari insinuatorie*, (translated "circulaires pleines d'insinuations") is simply a formula of Italian legal language: *insinuare* means "to command," "to request."

M. Lameire succeeds in isolating some interesting and important notions in the legal consciousness of the eighteenth century. The generals of that time recognized a nice distinction between displacement of territorial superiority and displacement of sovereignty. The former is a temporary situation, incident to the fortunes of war; territorial superiority gave the conquering army the right to take such measures as would ensure its own support for the moment in the territory occupied; any legislation going beyond the maintenance of the troops belonged to the sovereign power, even though that power was not present *de facto*. In determining the actual sovereign entity, a great complexity of considerations had to be weighed. A conquering power acting as an ally (auxiliary) of some other power, while it might enjoy territorial superiority, recognized the sovereignty of the power in whose interest the war was waged over the territory for which the war was waged.

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France, occupying the Milanese for Sardinia, yielded the sovereignty to Sardinia; in any other imperial territory, occupied incidentally, France was herself sovereign. But Sardinia was not entirely a free agent. In some respects she is vassal to the Empire; no act of the vassal can affect the sovereignty of the Empire, even though the war be against the Empire itself. Conversely the same fact of vassalage prevents change of sovereignty when the Empire conquers from Sardinia: in theory the Empire is acting simply within its own territory. There is always change of sovereignty when an independent power conquers from another independent power or the vassal of another independent power. But it is not always so simple as this. Spain is an independent power, but the Spanish king has pretensions to the imperial throne. If Spain conquers from Sardinia, is the vassalage of Sardinia to the Empire altered, or do those pretensions serve to maintain the vassalage? If the dependent *campagna* of a commune is occupied, while the commune remains free, is it a question of territorial superiority or of change of sovereignty? Or if the commune is occupied, what about the administration of the unoccupied *campagna?*

It is not surprising that M. Lameire should find numerous cases where the generals, instead of disentangling all these subtleties of the feudal system, took a more direct course by appealing "to justice and reason." In fact, the frequency of this method early in the eighteenth century shows, according, to M. Lameire, a widespread prevalence of rationalistic theories of government commonly attributed to the influence of Rousseau, and Rousseau in consequence "turns out a much smaller figure." This treatment of Rousseau may seem to some rather "cavalier." That criticism has long had Rousseau's influence a little out of perspective is quite true; it is now certain that he actually invented only an insignificant portion of his views. However, the occasional appeal to reason in legal matters, as shown by M. Lameire, or the lumbering anticipations of his social theories by the American Jesuits, as shown by M. Chinard, only demonstrate that Rousseau, instead of being the erratic genius, was rather the effective mouthpiece of a tendency of his age. What he may seem to lose in originality, he surely regains in social significance.

In its present form, M. Lameire's volume is of direct service to students of Italian local history, less so to the jurists and economists to whom it is dedicated. It is not without its value to laborers in quite a different field, the field of private life, manners and customs.

ARTHUR LIVINGSTON.

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Henry Demarest Lloyd, 1847–1903, A Biography. By CARO LLOYD. Two volumes. New York, G. P. Putnam's Sons, 1912.—xviii, 308; ix, 390.

The world knows men who take a side because of motives that no gold can overbalance. The wealth of simple vision required by them is an oft-told tale. Mr. Lloyd's great good fortune does not consist solely in having seen the issue or in having fought for it. It consists partly in having had a younger sister with vision enough to tell his story with sympathy and without the sickly gush or prudish sentimentality which spoils the tale.

Mr. Lloyd was not a man to amble calmly along the well-paved highway towards a goal long since seen and chosen. By preference he looked upon the ever-changing visage of present things, searching for the hope in them, and endeavoring to cure the evil in them with a purging flux of light. For this reason as well as others he took a searchlight, turned it upon those whom he called the "cannibals of competition" and kept it there. It was not always an easy task; but he knew something of economics, something of life, and could see what the Standard Oil Company and its fellows were leading to before others knew they existed; and he had the courage to tell what they meant.

Monopoly is an old story today; we have it, and we are considering what we will do with it. Social workers, politicians, monopolists and competitors converse at length on the subject. Mr. Lloyd started that conversation twenty-five or more years ago. It was in the days when it was still considered a smart American trick to devastate a forest or to bribe a governor, provided some one made a million thereby.

In Chicago's anarchist troubles of 1887 Henry Lloyd first showed of what he was made; and in return he saw his most "respectable" friends desert him, his father-in-law turn on him, and many whom he had loved and admired cut him. He, though a lawyer, had the temerity to suggest that Joseph E. Gary should not have asked so many questions from the bench when trying the anarchists (I, 86), and that men should not be hanged when the bailiff had owned to selecting the jury which tried them (I, 94). The men were hanged, nevertheless, and at first Mr. Lloyd had little else but a bitter experience of friendlessness to contemplate. His real fiber then showed itself, for he wasted little time in regrets or self-commiseration. Instead he saw in the whole story the birth of a new conscience regarding the ills of the "under dog." A "new emancipation will overspread the earth. It will conquer not by the blows it gives but by those it takes," he said

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(I, 109). And in definitely throwing himself into the struggle between capital and labor, he summed up his position in this way: "In all issues the principle of but one side can be right. The working man is often wrong, but his is always the right side" (I, 109).

The story of the railroad and Pullman strikes of 1892–93 almost chases the story of the anarchists off the stage, and it in turn is succeeded by the story of *Wealth Against Commonwealth*. This work was the first to set forth in detail the tactics employed in forming a monopoly, and the monopoly concerned was the ever-present Standard Oil Company. The company was not pleased; the reason why is made sufficiently clear in the chapter describing Mr. Lloyd's efforts not only to present the evidence fairly, but so fairly that it should be beyond the reach of criticism as well of as libel law.

The ten years which follow are described in ample detail; an appendix containing interesting documents is added; there is likewise a bibliography and an index. The volumes as a whole have two notable points. They are interesting and often exciting because they stick to the facts of a life that was concerned with fast-moving but far from ephemeral realities. They are cheering, because they plainly and perhaps not unconsciously refute an important maxim. The yellow press may have the weight of experience on its side when it hotly maintains that dollars will do anything; no doubt many people can hear money, even when it does not talk. None the less these volumes have the salutary moral that everything depends upon whom the dollars have to do with, and to whom the money speaks.

F. A. DEWEY.

COLUMBIA UNIVERSITY.

Reminiscences. By RICHARD CARTWRIGHT. Toronto, William Briggs, 1912.—xiv; 405 pp.

This volume of Sir Richard Cartwright's *Reminiscences*, which made its appearance just about the time of the death of the veteran Canadian statesman, is written in the form of short interviews with a reporter. There is neither plan nor framework to the book, and there is not even an index to serve as a guide to its contents. The fifty-eight interviews are arranged in a rough chronological order; but the form of the book, or rather its formlessness, occasions much repetition, frequent anticipations of events and a lack of exactitude. To find it of use, the reader must have a considerable knowledge of Canadian history; but to the student of Canadian politics, notwithstanding the

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defects of the book, the *Reminiscences* are of great value. The period covered extends from 1863, when Cartwright was first elected to the Parliament of the United Provinces of Ontario and Quebec, to 1896, when Sir Wilfrid Laurier, as the leader of the Liberal party, became premier with the support of a large majority in the House of Commons. On the later history of Canada, on the government of the Dominion by the Liberals from 1896 to 1911, Sir Richard Cartwright is in general silent, although he scores the protective policy of his own party almost as severely as that of the Macdonald government. He brings out also the enormous expansion of Canada since 1900—an expansion which he attributes largely to the adoption of wiser policies in the Northwest.

Much of the value of the book lies in the interpretations which Sir Richard Cartwright is able to give of the events of Canadian history, and also in the expression of his matured opinions concerning political principles and policies. Sir Richard Cartwright was one of the best read and best informed of Canadian politicians. His public career extended over fifty years. He had the advantage of seeing policies tried out in a new country and of watching their effect over long periods of time. He began political life as an independent member of Parliament, became a strong Liberal and free-trader, and lived to see his party adopt the protective policy which had been initiated in 1879 by Sir John A. Macdonald and the Conservatives. At the end of his long life he records his detestation of the "hopeful experiment" of making the country rich by the "simple expedient of increasing our taxes and dividing the proceeds more or less unequally between the Dominion Treasury and a small number of manufacturers." This policy, he adds, has continued in great measure from that day to this, with only one important modification, in the shape of the British preference. To this policy and to the unwise land policy of the Macdonald government, Cartwright attributes the fact that while the United States with its vast area of internal free trade was making progress by leaps and bounds, Canada remained stagnant, not even being able to hold her own natural increase and steadily losing the best of her people and the pick of her immigrants to the greater country to the south of her. Again and again in the *Reminiscences* Sir Richard Cartwright returns to this subject of Canada's loss of population. In "Interview Number Seventeen" he remarks:

> The people we lost were the very choicest part of our population. They were largely men in the prime of life, and included an immense percentage of the most intelligent and adventurous of our people. There is every

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reason to believe that between 1866 and 1896 one-third at least of the whole male adult population of Canada between the age of twenty and forty found their way to the United States. This sort of drain does much more than merely keep the number of the people down. It saps the vitality of the whole nation.

Sir Richard Cartwright is a strong advocate of the widest form of reciprocity with the United States. Indeed he would have liked a sort of federal union of all the great English-speaking nations. A letter written by him in 1871 to the editor of the *Canadian News* and reprinted in this volume outlines a scheme for such a union. At the present time, Canada is regaining some of the population that she lost in the last half of the nineteenth century. The turn of the tide came, according to Sir Richard, with the first year of the new century; but full commercial freedom between the United States and Canada would result in an enormous expansion both of the Northwest and of Ontario, and in a still greater access of wealth and increase of opportunities to the people of the United States.

A. G. PORRITT.

HARTFORD, CONNECTICUT.

The Fourteenth Amendment and the States. A Study of the Operation of the Restraint Clauses of Section One of the Fourteenth Amendment to the Constitution of the United States. By CHARLES WALLACE COLLINS. Boston, Little, Brown & Company, 1912.—xi, 220 pp.

The main purpose of this volume is to show that "as a constitutional ideal" the fourteenth amendment has proved a failure (chapter x). It was adopted to protect the negro in his rights; but in its whole history only twenty-eight cases have arisen involving negro rights and in only six of these did the court decide that it had the power to intervene (chapter v). On the other hand, as a safeguard of corporation interests against state reform measures it has proved most effective. Out of 604 cases decided under the amendment, 312 have involved corporations (page 145). Again, the amendment, as construed today, gives "to the federal government undefined and illimitable control over every phase of state activity," contrary to the fundamental principle of local self-government (page 146). Finally, the amendment has imposed upon the Supreme Court a burden of ever-increasing weight. "It brings before the court hard and delicate problems, it also brings much that is frivolous." It "puts the

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Supreme Court at the mercy of ambitious and unscrupulous lawyers." For the last few years litigation under the amendment has steadily increased, and *pari passu* the court's accumulation of unfinished business. As a remedy for this situation, Mr. Collins hesitates to suggest the repeal of the amendment. He therefore contents himself with proposing: (1) that appeals under the amendment be limited to cases in which the state court of final jurisdiction is divided on the question; (2) that inferior federal courts be prohibited from issuing injunctions under the amendment; (3) that no state law or procedure be declared unconstitutional by the Supreme Court, as being repugnant to the amendment, except by unanimous opinion of the court (page 166, 167).

Doubtless the states have sometimes had legitimate grievances against the court as regards its application of the fourteenth amendment, yet Mr. Collins has to admit that comparatively few cases in which it has been applied (less than ten per cent) have been decided adversely to state authority. He might have gone further, moreover, had he chosen; he might have acknowledged that by far the most important of the cases so decided involved state railway-rate laws. As to such laws, however, it is being more and more insistently urged that they are forbidden by the commerce clause of the Constitution. Moreover, they always touch widespread property interests. No doubt these are immediately the interests of hideous "corporations"; but, more truly considered, they are the property interests of American citizens, the majority of whom have usually had no effective voice in the shaping of the legislation in question.

More plausible is the criticism of the amendment as "undefined." This quality was imparted to it by the acceptance by the court in *Allgeyer v. Louisiana*, decided in 1896, of the "freedom of contract" theory. Fully three-fourths of all the cases under the amendment have arisen since then. On the other hand, it is not difficult to sustain the thesis that the adoption of this notion by the court was a real benefit from the point of view of the states themselves, for the reason that many state courts were treating this doctrine as absolute and subject to no qualifications whatsoever. These courts needed instruction in more liberal views, and they have been receiving it steadily from the Supreme Court of the United States. So well is this recognized that, while Mr. Collins is bringing forward the proposition that appeals from state courts to the United States Supreme Court under the amendment be limited, others are urging that they ought to be extended in order to enable the federal judiciary to correct more

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promptly and efficiently the too restrictive doctrines of some of the state courts. Finally, it is by no means clear that the author's skepticism regarding the utility of the fourteenth amendment as a safeguard of negro rights is justified, even today.

But while the reviewer does not accept Mr. Collins's general thesis, he has found the volume most informing. It should be pointed out, however, that the list of cases given in Appendix E, is not quite complete. Knoxville Iron Company *v.* Harbison, 183 U. S. 13, is an important omission.

EDWARD S. CORWIN.

PRINCETON UNIVERSITY.

The Framing of the Constitution of the United States. By MAX FARRAND. New Haven, Yale University Press, 1913.—ix, 281 pp.

Professor Farrand, with whose edition of the *Records of the Federal Convention* students of constitutional history are familiar, presents in this volume a semi-popular account of the making of the Constitution of the United States. It is not intended to be a complete history of the subject. "It is a brief presentation of the author's personal interpretation of what took place in the Federal Convention. It is merely a sketch in outline, the details of which each student must fill out according to his own needs" (page viii). It consists of thirteen chapters and four appendices, the latter containing the Articles of Confederation, the Virginia Plan, the New Jersey Plan and the Constitution. Chapters v–xii present what is perhaps the best brief narrative that has been written of the proceedings of the Convention. No man is better qualified than Professor Farrand to tell this story, for his work on the records has given him a thorough knowledge of the day-to-day debates of the Convention, and he tells it in a plain, straightforward manner. Of particular interest is the chapter on "The Committee of Detail," whose report receives credit as "an important stage in the framing of the Constitution." The author shows that in working the twenty-three resolutions referred to it by the Convention into a draft constitution the committee was aided chiefly by the Articles of Confederation, from which many provisions were taken literally.

A few important powers were added, but the significant change is the attempt to infuse into the new system sufficient energy and power to carry out the functions that had been granted to the old. With the qualification

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just stated, it is not too much to say that the Articles of Confederation were at the basis of the new Constitution [page 128].

Next to the Articles, the documents most used, says Professor Farrand, were the New Jersey and Pinckney plans; and the state constitutions, especially the New York constitution of 1777, were freely drawn upon.

In an article published in 1908, entitled "The Federal Convention and the Defects of the Confederation," the author made known his interpretation of the Convention's work, his "key" to the Constitution. This article forms the basis of chapter iii of the present book, where the interpretation is re-stated in these words: "The specific task which the Convention thus had before it was to remedy a series of perfectly definite defects [of the Articles of Confederation] each of which had revealed itself in the experience of little more than ten years" (page 52). And the same conclusion is elsewhere presented with greater boldness in the assertion that "there is practically nothing in the Constitution that did not arise out of the correction of these specific defects of the confederation" (page 202).

This interpretation is no doubt sound as far as it goes, but it tells us little of the principles, influences and interests that swayed the Convention. It is as impossible to interpret the Constitution without a knowledge of the personnel of the delegates as it would be to appreciate *Paradise Lost* without reference to Milton. When an application of therapeutics constitutes the organic law of the land, we naturally wish to know who made the diagnosis. Professor Farrand has failed to give us any concrete impression of the "fathers." This is all the more disappointing, because he tells us that in the process of editing the records he has grown familiar with the personalities of the more important delegates and that "a mental picture of the Convention was formed which developed into a conviction as to what the delegates were trying to do and what they actually accomplished" (page vii). If he has seriously tried to communicate this impression to his readers, he has been singularly unsuccessful. Chapter ii, on "The Convention and its Members," consists of a series of "tags" purporting to characterize the fifty-five members who actually attended. These "descriptions" are almost wholly without value; a few diverting anecdotes are related, some facts are given, but no information is vouchsafed to help the reader to understand the spirit of the Convention, the mental attitude of the members towards the great governmental, social and economic problems which confronted them. As an example of the kind of description which Professor Farrand offers, that of Charles Pinckney may be quoted:

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Charles Pinckney, at twenty-nine, was the youngest member of the delegation and one of the youngest men in the Convention, and he must have appeared to be still younger, for Pierce speaks of him as only "twenty-four." Rather superficial but brilliant, with a high opinion of his own ability and with extraordinary conversational powers, it is little wonder that he pushed himself forward, and it is not surprising that he seems occasionally to have been sharply snubbed by his elders.

All of which is clearly not helpful to an understanding of how Pinckney stood on the big problems of the day, or how he was likely to vote on important questions. In writing this chapter the author seems to have depended chiefly on the *Notes* taken by Pierce of Georgia, an inconspicuous delegate from a remote state, whose acquaintance with most of the members of the Convention was of the most superficial character. The fact is that the personalities of the delegates, which so largely determined the spirit of the Convention, cannot be adequately dealt with on the basis of a study, however minute, of the records of the Convention alone. In the opinion of the reviewer a satisfying interpretation of the Constitution will be impossible until a thorough study of the careers of its framers shall have been made.

What manner of men were these whom Jefferson called "an assembly of demi-gods"? What was their attitude toward democracy? Were they on the whole genuinely representative of the people, building on a broad, humanitarian foundation; or was the product of their labors what the latest commentator of Magna Carta declares that document to have been—class legislation? Is it true, as President Wilson has said, that "the government had . . . been originated and organized upon the initiative and primarily in the interest of the mercantile and wealthy classes?" It is matter for regret that a writer who knows perhaps in greater detail than anyone else the proceedings of the Convention tells us nothing of the Convention's *Geist*.

R. L. SCHUYLER.

La Gestion par l'État et par les municipalités. By YVES GUYOT. Paris, Félix Alcan, 1913.—viii, 437 pp.

In reading M. Guyot's books one must always remember that M. Guyot is, first of all, an anti-Socialist polemist and, secondly, a Parisian journalist. The former fact, indeed, he never allows you to forget; the latter makes him always interesting.

This book is written to combat the advance of municipal and state ownership, and more particularly to call the "bluff," as the author

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frankly says, of Professor Edgard Milhaud, the ardent Socialist of the University of Geneva. In maintaining his cause, M. Guyot has laid toll on every leading country of Europe, as well as on the United States, New Zealand, India and Australia. He has scrutinized, in his own way, nearly every state or municipal activity from the post-office to the municipal meatshop; he has searched many secondary sources and has evidently read an amazing lot of newspapers from all over the world, in order to establish his general conclusion—which is naively put in the middle of the book—that "progress is the result of the individual, not of the state."

The analysis of the figures used is adroit, for Mr. Guyot is nothing if not clever; and his candid manner goes far to reconcile the reader to his journalistic methods, which are not the monotonous repetitions of the statistician or of the accountant. His method is well illustrated by his treatment of the Prussian railway system. These state-owned roads are officially reported to earn from 4.88 per cent to 9.26 per cent. M. Guyot proceeds to analyze these returns, and reduces the profit to a deficit by indicating that the government reports do not charge all the necessary expenditures against the roads. Legitimate charges, he says, would include interest on the capital, the entire cost of improvements and extensions, as well as all running expenses and complete provision for amortization. He further says that the government reports do not charge against the railways the cost of the service of a number of officials connected necessarily though indirectly with the roads; and that no notice is taken of the fact that, if the roads were in private hands, a large revenue in the form of taxes would accrue to the state. M. Guyot insists that all these items, excepting perhaps the last, should be included in the expense account, and that the state is merely deceiving itself in boasting a net profit. Its accounting system is one that would soon lead a private concern into bankruptcy. He further charges that the German service is inadequate, certainly as compared with that of the British railways; that the amount of traffic is less than that of Great Britain; that the rate of freight is higher; that the service is less regular; and that there is a constant shifting of rates. Rate-making is arbitrary and reveals gross favoritism, not only toward certain districts but also, as the author suggests, toward certain political influences. The moral effect of such state conduct on the Prussian people, M. Guyot thinks, is perfectly apparent.

In a similar manner, all sorts of public activities are scrutinized. The author is most interesting, naturally, in his discussion of French conditions, especially in the chapter that deals with the purchase of

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the Western Railway by the government—an enterprise, he maintains, that was conceived in politics, for the purpose of placating the Socialists, and that has been more profitable to the stockholders of the company than to the state. His strictures upon the operation of this road are more convincing than those directed against the Prussian system. He indicates that the number of employees has greatly increased, and that political influence, especially the influence of the Socialists, is particularly hampering to good service.

Probably the most helpful chapters, however, are those that deal with the important subject of "clientelism," as fostered by an army of state servants, and with the personnel of the public service. There is a touch of intimacy in the handling of these matters that comes from the author's three years of experience as minister of public works.

M. Guyot's alert eyes have not overlooked any chance to expose the weakness of his antagonists. For example, in a lengthy chapter on "*L'Administration des Poudres*," he lays bare the causes of the fatal explosions on the battleships "Liberté" and "Jené" in a way not complimentary to government management. And he comes to our own country to discover an example of state faithlessness in our pending canal-tolls controversy with Great Britain. The numerous references to American conditions remind us that we, too, are being rapidly drawn into the stream of widened state activities, and that we must take an increasing interest in our European commentators, even if they cite us as affording glaring examples of maladministration!

SAMUEL P. ORTH.

CORNELL UNIVERSITY.

Sozialpolitik. By OTTO VON ZWIEDINECK-SÜDENHORST. Leipzig, B. G. Teubner, 1911.—vii, 450 pp.

There seems to be no exact equivalent, either in the English language or in American life, for the German *Sozialpolitik*. As used by Dr. Zwiedineck-Südenhorst, the term is broader than "social politics," since it comprehends more than state or political action, but it is somewhat narrower than "social policy," since it is concerned with a particular aspect of social affairs. If the book had been written in this country, it would probably have received the title "Labor Problems." Yet it differs from American works of this nature as widely as the German viewpoint and method of action differ from the American. Instead of a series of essentially disconnected essays on specific labor problems or a series of arguments and proposals based mainly on ethical ideals,

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Zwiedineck-Südenhorst attempts a comprehensive, organic, matter-of-fact treatment of the labor question, conceived as a single great problem of social welfare, and bases this treatment on a substructure of fundamental sociological analysis.

The work is divided into two parts. The first, which might perhaps be called the general theoretical part, treats of society and social classes; of the concept, nature and theoretical basis of *Sozialpolitik*, and of its sphere, methods and possibilities. The second part, which occupies two-thirds of the volume, deals with the general organization of *Sozialpolitik* and the various essential aspects of the labor problem, including the socio-political apparatus of the state, the organization of self-help, the ideal, essence, content and development of labor protection, its assumptions, methods, and machinery, in general and in particular applications. This part of the work might perhaps be called applied sociology in the field of labor problems, but the treatment here also is both organic and theoretical.

A specific characterization or criticism of the author's work is impossible within the limits of a review. Any attempt to give a general statement of his position is likely to be false in emphasis and must be taken as purely tentative. He appears to take for granted that successful social activity must proceed along the lines of a systematic program. This program must rest not so much on ethical ideals as on a matter-of-fact understanding of social forces and relationships. In considering these, he lays stress upon material and technical factors as constructive determinants. These, together with social, ethical, legal and æsthetic differences, give us social stratification as a fundamental characteristic of human association. The fact of class antagonism, therefore, is the basis of sociology. Class antagonism, however, threatens social welfare. The aim of *Sozialpolitik* is the elevation of the cultural level of the working classes without sacrificing the interests of society as a whole; in other words its aim is the neutralization of the untoward effects of stratification. Its success postulates technological improvement and a tendency to a lesser degree of multiplication of the human race. Ameliorative efforts must proceed in harmony with economic principles and should consist in a wise combination of state activity and self-help.

Irrespective of the validity of Zwiedineck-Südenhorst's social analysis or of the merits of his discussion of methods and of specific labor problems, a study of his book would be of great value to almost any of our American social reformers. The American method of piecemeal and haphazard activity, based largely on emotionalism, accomplishes rela-

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tively little and apparently leads nowhere. Moreover, in many cases, our specific and isolated reform measures have unexpected secondary results worse than the evil sought to be remedied. What we need is a comprehensive program of reform, based on a broad and fundamental knowledge of social facts and forces. For this reason Zwiedineck-Südenhorst's *Sozialpolitik* is heartily recommended by the reviewer to the American fraternity of Uplifters.

R. F. HOXIE.

UNIVERSITY OF CHICAGO.

The Elementary Principles of Economics. By IRVING FISHER. New York, The Macmillan Company, 1912.—xvi, 531 pp.

After going through preliminary editions for a period, during which it was being tested and criticised by a limited number of readers, this book now appears in its regular edition. It is designed as a college text-book in economics. The preface states that it does not intend to introduce controversial matter. The contents, however, are, in the main, merely an abridgment of Professor Fisher's more elaborate theoretical works, *The Nature of Capital and Income*, *The Purchasing Power of Money* and *The Rate of Interest*, none of which can be said to be out of the field of controversy as yet, whatever degree of acceptance the future may hold for them. The contents of *The Elementary Principles* are assuredly not a body of doctrine on which economists can be said to have agreed.

The elaborate and rather fatiguing classifications and definitions of *The Nature of Capital and Income* confront the student at the outset, over a hundred pages being given to them. The beginner, before he is through this part of the book, will be apt to conclude that the subject is pretty dreary. Nor is there much of vital interest for the average undergraduate in the discussion of money which follows. A pamphlet containing "problems" for use in connection with the book has been issued by the author. On page 17 of that pamphlet, in connection with the theory of money, is found the following problem:

> Suppose that in the year 1900 the prices of various goods are p_0, p_0', p_0'', . . . and the quantities Q_0, Q_0', Q_0'', . . . respectively; and that, in the year 1912, the prices and quantities are p_1, p_1', p_1'', . . . and Q_1, Q_1', Q_1'', . . . Let the price level (P_0) for 1900 be called 100 % or 1. Write
>
> (1) the formula for T_0, the volume of trade for 1900.
>
> (2) the formula for T_1, the volume of trade for 1912, as the total value which the quantities for 1912 would have *at the prices of 1900*.

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(3) the formula for P_1, the price level for 1912.
[See *Purchasing Power of Money*, Ch. X and Appendix.]

This may be economics—though doubt is respectfully suggested on that point—but it is assuredly not likely to arouse great enthusiasm among college sophomores or juniors. It is proper to state that this is an extreme illustration, but it is none the less a real illustration of the specific character of this book when compared with other elementary texts in economics. Professor Fisher's enthusiasm for his method, his brilliant class-room form and his striking personality could make this book successful. But most teachers of economics would find it exceedingly difficult to do so.

B. M. ANDERSON, JR.

COLUMBIA UNIVERSITY.

The Aldrich Plan in the Light of Modern Banking. By LUDWIG BENDIX. New York, Robert R. Johnston, 1912.—vii, 229 pp.

This book throws a beam of cold, clear light on a project the discussion of which has been befogged in almost equal degree by ignorance, prejudice and political chicanery.

The author is a native of Germany. Before coming to America as the head of the statistical department of a large private banking firm, he was connected with the School of Commerce in Berlin. He thus speaks from the vantage point of the student whose reading and study are buttressed by personal observation and experience in the field of practical business. As a foreigner he escapes the political predilections or prejudices that color almost every American's consideration of big, national questions, and he can study the problem of banking reform from a completely detached and a purely scientific viewpoint. His opinions and suggestions are worthy, therefore, of serious and respectful consideration.

The main body of the book is divided into three chapters. The first of these deals with the American banking system, with the main features of continental banking and with the fundamental ideas of the Aldrich plan. The second expounds clearly the details of the Aldrich plan, while the third comprises a careful criticism of the plan, a consideration of the basis of the opposition to it, and the author's own conclusions and constructive suggestions. There is also an appendix including the original and the revised Aldrich plan, the bill introduced by the Monetary Commission and a series of valuable statistical tables. Mention should also be made of the index, which is full and serviceable.

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The first two chapters of the book are essentially descriptive. In the description of the national banking system, the author makes some erroneous statements. On page 4 he informs us that the minimum deposit of bonds by national banks with the United States government is $30,000. Since the banks in communities of 3000 inhabitants or less require a total capital of only $25,000, the absurdity of this statement is patent. Furthermore, the author says that large banks have to deposit bonds with the government to an amount equal to one third of their capital (page 4), and that on the three-per-cent bonds they can issue notes only to 75 per cent of the face value of the bonds (page 5). Besides erroneous statements there are also erroneous implications; but as the main purpose of the book is to discuss the Aldrich plan, these slips are of little consequence.

The interesting and valuable part of the book is that which is concerned with the discussion and criticism of the national reserve-association scheme. On the whole the attitude of the author is friendly. His main criticisms are two: the first is that, with the note-issue privilege left to the individual banks to the extent that is proposed in the plan, any effective centralization and elasticity of note issue would probably be prevented; and second, that the narrow restrictions on the scope of the business of the reserve association would not only prevent it from keeping in close touch with business developments but would also hamper it seriously in the effort effectively to control the discount market. To remedy these weaknesses, he suggests that the note-issue privilege be withdrawn from all member banks, and that the national reserve association be permitted to do business, certainly with all banks, whether member or not, and preferably also, under certain conditions, with individuals; and furthermore that the national reserve association be allowed to purchase prime bills under the official rate whenever the latter is below what might—to borrow from Bagehot—be called the "apprehension" level.

Both of these criticisms rest of course on estimated probabilities rather than on certainties, but to the extent that the probabilities are accurately gauged the criticisms are of highest importance. Concerning the first criticism, however, it may perhaps be said that there is not any great likelihood of a large number of national banks remaining outside of the association or maintaining an independent issue. And concerning the second it may be observed that the presence on the board of directors of the central association of a large number of presumably able and experienced bankers ought to make it possible for the central association to keep in pretty close touch with developments

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in the credit market. There ought not, however, to be the slightest doubt about the power of the reserve association to make its rate effective. Such power is vital to any real control of the reserves, and should an extension of the functions of the association prove to be necessary to safeguard this control, then the author's plea for such extension will have to be heeded.

On the whole, Mr. Bendix's study is a valuable one. We need more like it. Too much of the discussion of the currency problem has been carried on by incompetents. The matter is too vital to be left entirely to the politicians; and Mr. Bendix has rendered a distinct service in his discussion by ignoring all considerations except sound principles of banking. A word must be said in appreciation of the excellence of the work of the translator, Dr. Harry Friedman.

EUGENE E. AGGER.

Les Syndicats feminins et les syndicats mixtes en France. By AUGUSTE PAWLOWSKI. Paris, Félix Alcan, 1912.—188 pp.

M. Auguste Pawlowski is the author of several studies on the history, theory and practice of labor organizations in France. His first little volume on the "General Confederation of Labor" (C. G. T.) was followed by one on the so-called "Yellow Syndicates" (*Les Syndicats Jaunes*), and now comes this volume devoted to women's trade unions and to unions composed of both employers and workingmen, which in France are called "mixed syndicates."

M. Pawlowski holds that trade unions are necessary economic phenomena called into being by modern industrial conditions. He believes that workingmen's organizations can and should deal with the problems arising in modern industry, such as wages, unemployment, working conditions *etc.* But he would like to see the unions deal with employers in a spirit of friendliness and conciliation, and he judges all trade-union activities from this point of view. He is therefore critical toward the revolutionary organization of the C. G. T., and friendly to those unions which aim to promote the solidarity of labor and capital. In the historic and descriptive portions of his work, however, M. Pawlowski is quite impartial, presenting the facts as they are; and this makes his studies valuable regardless of the point of view.

Woman, M. Pawlowski finds, has entered industry to stay, and is prompted by her industrial position to organize along economic lines. Yet women's trade unions are few and small, not only in France, but in other countries as well. In France there were 116,652 organized

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working-women in 1908, and 102,190 in 1910 out of a total of 4,909,515 wage-earning women. Only about 50,000 belonged to unions composed exclusively of women. M. Pawlowski indicates two causes for this phenomenon: in the first place, the men do not willingly admit women into the unions, fearing their competition; and, in the second place, women are ignorant of their rights and interests.

It is evident that these causes alone do not explain the existing situation. A deeper analysis of the individual and social psychology of women would throw considerable light on the matter, as well as on a number of other facts which are set forth in the book—the facts, namely, that in France but few women's trade unions accept the revolutionary program of the C. G. T., and that most women's unions are formed with the help of "society" women, are under the protection of the aristocracy and are organized on the basis of professed loyalty to the Catholic faith.

More or less closely related to the subject of women's trade unions is the subject-matter of the second half of the volume, in which the mixed syndicates are described. Like most of the women's trade unions, the mixed syndicates devote their energies to the benevolent features of their organization, and have in most cases introduced death, sick, and unemployment benefits, free loans, technical courses, lectures, reading rooms *etc.* M. Pawlowski thinks that the presence of employers in the syndicates does not in any way limit the freedom of the workingmen, while on the other hand it tends to bring employers and workers together and to awaken in them feelings of mutual respect and of mutual understanding. From M. Pawlowski's point of view, the mixed syndicates would seem to be the best workingmen's organization so far evolved—the organizations best adapted to help solve the difficult problems of modern industrial life. Yet M. Pawlowski is forced to state the fact that these mixed syndicates include a ridiculously small part of the organized working class, and that, despite all efforts made by enthusiastic supporters, they show no tendency to grow. There were only 194 mixed syndicates with 40,145 members in 1910, against 5325 workingmen's unions with 1,029,238 members. Between 1909 and 1910 the membership of the mixed syndicates increased only 2140, while that of the workingmen's syndicates increased by 51,888. The failure of the mixed syndicates M. Pawlowski attributes to the fact that they are connected with the Catholic church, whose representatives have made persistent though futile efforts to build up a Catholic labor movement in France. Yet it may be doubted whether this explanation is sufficient. Many of the facts related by M. Pawlowski—such as the friction

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between the employers and workingmen in the mixed syndicates, the strikes even in the Catholic syndicates *etc.*—would seem to justify the question whether a deeper study of the psychology of the different groups and classes engaged in modern industry would not reveal the futility of such forms of organization as that represented by the mixed syndicates in France. It is interesting that M. Pawlowski himself is forced to admit that the mixed syndicate "has not said the last word" on the problem of organizing industrial life on the basis of solidarity.

LOUIS LEVINE.

NEW YORK CITY.

Railroads: Rates and Regulations. By W. Z. RIPLEY. New York, Longmans, Green and Company, 1912.—xviii; 659 pp.

This volume gives a description of the evolution and results of current freight-rate practices which suggests somewhat the work of Mr. L. G. McPherson, save that it is written from the point of view of one more thoroughly in sympathy with the growth of regulation. In his mass of descriptive material, Professor Ripley outdoes Mr. McPherson. He gives also a vivid and sympathetic account of the growth and vicissitudes of federal regulation, with emphasis on the battles of judicial interpretation. He proves that it is possible to appreciate to the full the complexity of the task that confronts the railroad official, without idealizing the success with which these difficulties are met. The fact that rates are the "natural" products of commercial evolution does not lead him to the conclusion that therefore they cannot be "artificially" bettered by public action. Rather it is shown that the product of past conditions may become a bar to the natural course of future progress. Wastes and anachronisms are indicated, and disagreeable episodes are not glossed over. Pro-railroad senators are freely named, and early attempts at duping public opinion are unsparingly treated. The chapter covering the period from the passage of the first Interstate Commerce Act to 1905 is entitled "Emasculation of the Law." Professor Ripley certainly hits from the shoulder.

Despite its size, the volume is limited in scope. It deals almost exclusively with freight charges, and even here the subjects of "Physical Valuation and Reasonable Rates" and of "Joint Rates and Prorating" are postponed to a second volume, in which pooling also is to be more fully treated. The details of freight service, to which the recent book of Johnson and Huebner gives so much space, are studiously avoided and even such a topic as demurrage is omitted.

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Among the best chapters are those on "Personal Discrimination," "Problems of Routing" and "Freight Classification." The difficulties of establishing uniform classification are particularly well presented. The book will be an extremely valuable work of reference; while the general reader, who may skip the multiplied details of cases and decisions, will find much that is too interesting to be overlooked.

The author pleads the inductive method in justification of his "almost exuberant mass of illustrative material," realizing that "it may be alleged that in places so thick are the circumstantial trees of evidence that one can scarcely perceive the wood of principle." This effect of confusion is especially vexing in the chapters on the theory of charges. After concluding that two-thirds of the expenses for maintenance of way do not vary with traffic (page 55), the author finds by comparing such outlays on different roads that they do vary with traffic so emphatically that he is driven to compare them on a basis of ton-miles moved rather than on a basis of miles of road (pages 60, 61); yet no explanation is offered for the apparent inconsistency. One hardly knows what to do with the statement that two-thirds of a railroad's expenses do not vary with the ups and downs of the volume of traffic "*at any given time*" (page 65. The italics are the reviewer's). The statement that "the new (capital) outgo must be distributed evenly over the entire volume of traffic thereafter handled" (page 61) sounds like the cost theory of charges, which the author elsewhere denies (page 169 *et seq.*); and the final conclusion that the law of increasing returns in the case of railroads is fiscal rather than economic and not due to "any marked economies of large-scale production" (page 99) seems based on nothing but an unusual use of terms. The soundness of Professor Ripley's general conclusions is superior to the coherence of his presentation. The book has embodied in it a number of earlier articles, resulting in some repetition and in one incidental anachronism (page 293, lines 6–9). Many slips have escaped the proof reader, some of these being serious enough to reverse the sense of a clause.

In view of the admitted difficulty of seeing the forest, the reviewer takes the liberty of generalizing the author's conclusions on the matters of most violent controversy, *viz.* the conflicts of rival localities which focus on classifications and differential rates. Fundamentally, the questions at issue are the same we meet in the field of international commerce; for they hinge on the conscious determination where industries and trade shall be located, through the exercise of a power almost as discretionary as that of taxation. Into the framework made familiar

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by the tariff controversy we may fit the conclusions of the present study.

Paralleling the general free-trade argument is the statement that the "principle of relative cost should be the fundamental one in fixing upon the scale of local non-competitive rates" (page 180. See also pages 123–124, 132–133, 137 and 162). The familiar "infant industry" argument appears no less plainly: "It may temporarily be worth while, in order to build up a new industry, to accord a lower rating to a commodity actually more valuable or more expensive to handle than others" (page 179. See also page 178). Again: "At times it is neither water nor commercial competition which actually brings about the low rate at the basing point, but merely a consensus of opinion among carriers that the place will respond quickly enough to favors granted to make it worth while to try the experiment" (page 228). Not always, however, does this motive justify the differential of which it is the cause. There is shown a direct conflict between this principle, which tends to concentration at selected localities, and the desire for decentralization on grounds of general public policy (page 395. See also pages 199 and 241).

The "established interests" argument is still more in evidence in the policy of "keeping everybody in business." To induce timid capital to locate on their lines, carriers must give "some guarantee of permanence" (pages 149 *et seq.*); and, having done so, they are "subsequently estopped from charging to the full limit of what the traffic will bear" (page 545). But this policy should stop short of creating industrial rigidity (pages 153–154 and 162). Latitude must always be allowed for meeting unavoidable competition; but the trunk-line rate system, based on distance, is set as a standard towards which the basing-point system and others will naturally approach, as the rest of the country approaches the dense settlement of the trunk-line region.

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RECORD OF POLITICAL EVENTS

[From November 6, 1912, to May 1, 1913]

I. INTERNATIONAL RELATIONS

THE BALKAN WAR.—The **offensive campaigns** of the allies culminated during the month of November. The Greeks entered Salonica on November 9; Servian armies took Durazzo on the twelfth and completed the conquest of Macedonia by capturing Monastir on the eighteenth and Dibra on the twenty-eighth; and the Bulgarian army, after defeating the Turks at Tchorlu in the first week of November, went into winter quarters before the Tchataldja line of fortifications.—The **Greek navy** repeatedly engaged Turkish ships off the Dardanelles and continued to attack the Ægean islands; investing Tenedos November 6, forcing the Turkish garrison of Mitylene to surrender on December 21, occupying Chios on January 3 and investing Samos March 15.—An **armistice** was signed at Tchataldja on December 3, by which Bulgaria, Servia, Montenegro and Turkey agreed to send delegates to a peace conference at London. During the armistice the armies were to retain their positions and the besieged fortresses were not to be reprovisioned. Greece refused to accede to this agreement while Janina remained in Turkish hands and continued her attacks on that city.—At the first session of the **Peace Conference** in London on December 16 the Greeks insisted on a share in the deliberations. The Turks, after some delay and efforts to obtain a counter-concession, yielded on this point. The territorial demands which the allies submitted December 23, comprising the cession of all territory west of a line from Rodosto to Cape Malatra, of the Ægean islands and of Crete, were refused by the Turkish diplomats, and the conference was suspended by the allies on January 6. On the sixteenth, the Porte was advised by the powers to yield on the question of the surrender and cession of Adrianople. After receiving the assent of a Council of Notables on January 22, the Turkish government proposed to compromise on the division of Adrianople and the autonomy of the Ægean islands. This was insufficient to satisfy the allies, and on February 3 there was a general **resumption of hostilities.** The Bulgarians with Servian help pressed the attack on Adrianople; two forts were taken on March 9; and on the twenty-sixth the whole eastern line of defenses was carried and Shukri Pasha was compelled to surrender with some 30,000 men. A vigorous attack was then made on the Tchataldja line; the town of Tchataldja was taken, and Bulgarian detachments occupied Delepes, Injes, Subachu and Serbele. Meanwhile the Greeks had captured Janina, March 6; the siege of Scutari had been urgently prosecuted by Servian and Montenegrin troops; and Greek ships in the Adriatic were coöperating with the allied forces in northern Albania.—**The mediation of the powers**

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was impeded by their clashing interests. The moral support which Russian sentiment gave to the Greek-Christian Slavic Balkan states brought Russia into sharp conflict with the Austro-Hungarian "expansion to Salonica" policy. After the resumption of hostilities between the Turks and the allies, the attention of the powers was directed to the settlement of the conflicting claims to **Albania**. In deference to the strenuous representations of Austria-Hungary, they agreed to incorporate Scutari in an autonomous Albanian state and to forbid the acquisition by Servia of an Adriatic port, although Servia was to be given commercial access to the Adriatic over a neutral railway. In return, the Triple Entente secured for Servia and Montenegro the debatable territories of Ipek, Prizrend, Dibra and Djakova. The northern and eastern frontiers of the proposed autonomous Albanian state were formally agreed upon, March 26. The immediate result of this agreement was the relaxation of Austro-Russian tension and the simultaneous withdrawal in March of 36,000 Russian and 30,000 Austrian troops from the Galician frontier. With the consent of the Porte, renewed offers of mediation were made on March 1'. Two weeks later the allies were willing to accept the good offices of the powers on condition that Adrianople and Scutari be surrendered, that the western boundary of Turkey be the Rodosto-Malatra line, that Crete and the Ægean islands be ceded and that an indemnity be paid by Turkey. The powers, unwilling to give Bulgaria a foothold on the Dardanelles, insisted on the line from Enos to Midia by way of the Maritza and Ergene rivers; and, as German interests opposed the union of the Ægean islands with Greece, the powers offered to establish later the status of those islands. On April 1, the Porte was ready to accept a direct line from Enos to Midia, and the allies were finally induced to agree to mediation, reserving the right to discuss with the powers the claim for $300,000,000 indemnity, the disposition of the Turkish national debt, the status of the Ægean islands and the delimitation of the boundaries in Thrace and in Albania. On April 19 an **armistice** was signed at Bulair by all the belligerents except Montenegro. The decision of the powers to incorporate Scutari in Albania only incited King Nicholas to redouble his efforts to capture that city. An international fleet under the command of an English admiral attempted to punish this defiance by blockading the coast from Antivari to San Giovanni di Medua on April 10. Unintimidated, the Montenegrins continued the siege and captured Scutari on April 23. Austria-Hungary at once assumed a belligerent attitude and it was feared that further refusal of the Montenegrins to give up Scutari would precipitate an invasion.—In 1903 **Rumania** had declared that an alteration of the *status quo* in the Balkan region could not be tolerated. When the present struggle became clearly a war of conquest, Rumania demanded from Bulgaria, as the price of her neutrality, a slice of Silistrian territory. The critical situation which developed in February was ended by the decision of both countries, at Russia's suggestion, to refer the dispute to an ambassadorial conference at St. Petersburg.

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GENERAL EUROPEAN RELATIONS.—The Balkan troubles and the conflict of Russian and Austro-Hungarian sympathies and interests (see *supra*) caused friction between the **Triple Entente** and the **Triple Alliance.** Germany and Italy came to the support of Austria-Hungary and made public, early in December, the renewal for twelve years of the Triple Alliance, which would have expired in 1914. The Triple Entente replied with renewed demonstrations of the cordial relations existing between its members: M. Poincaré was decorated by the tsar in February, and the distinguished diplomat and naval enthusiast, M. Delcassé, was appointed French ambassador at St. Petersburg. After a visit of Prince Hohenlohe to Russia, the strain was somewhat relieved by the Austro-Russian agreement for simultaneous reduction of their armies to the normal peace footing on March 12; but the two nations still watched each other jealously. In this situation, Germany felt obliged to increase its armament and to strengthen the fortresses on the French frontier. The French government responded with a three-year military service bill (see *infra*, p. 377). The animosity between **France** and **Germany** was further increased by a series of minor incidents, such as the accidental landing of German airships in French territory and petty demonstrations in France against German tourists.—**Anglo-German** relations were not improved by Mr. Churchill's statement that the dominion-contributed ships (with the exception of the New Zealand) were to be added to the 16-to-10 naval superiority of Great Britain over Germany which he had recently announced and to which the German government had tacitly agreed. Consequently, Mr. Churchill's proposal on March 26 for a one-year interruption of naval construction found little favor in German circles. An attempt to allay the fever of **militarism**, against which not even the small states of Belgium and Holland with their practically assured neutrality are immune, was evidenced in the peace demonstrations of Socialist mass-meetings in European capitals and in the one-day strike against war in France, as well as in the unanimous motion of the Inter-Parliamentary Union Council at the Hague that Great Britain should take the initiative in proposing limitation of armaments.

AFRICAN RELATIONS.—The long diplomatic duel between Spain and France over the **Moroccan** question (see last RECORD, p. 732) was finally decided in favor of the latter country by the signature on November 26 of a Franco-Spanish treaty of 29 articles. The boundaries of the zones of the two signatory powers were to be delimited by a mixed commission (which was appointed in April); it was agreed, however, that Spain should abandon important districts in the north and in the south, with the meagre compensation of Mt. Ghani (seven miles from Alcazar). The eastern boundary of the southern Spanish zone was to be approximately the eleventh meridian west of Paris. The dimensions of the Ifni enclave were fixed at 25 km. by 44 km. The details of the troublesome question of the status of Tangier were left unsettled, but it was decided in principle to place that city under a special international régime.—In the region south of

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Morocco, the Northwest Adrar district, a French expeditionary force encountered stubborn native opposition.—The **Liberian** government found itself involved in difficulties with the German government by reason of insults offered by natives to German merchants and officers. The presence of the German gunboat "Panther," reinforced later by another gunboat and a cruiser, secured apologies from the Liberian government; but in March the little state retaliated by offering to an English firm a concession to exploit 12,000 square miles of the most valuable land in the republic.—News from Cairo in April that £8,000,000 had already been subscribed for the construction of a railway connecting Derna, Tripoli, with the Egyptian Maronit line seemed to indicate the drawing together of the British protectorate and the new Italian dependency. The same friendly disposition dictated agreements between Italy and her other North African neighbors. In November France and Italy agreed to guarantee each other most-favored-nation treatment in Morocco and in Libya.

ASIATIC RELATIONS.—The delay of negotiations for the conclusion of the six-power loan (see last RECORD, p. 733) kept the **Chinese** government in continued financial difficulties, which were only temporarily relieved in February by an advance of $3,750,000 by London bankers. On March 18 the new administration in the United States withdrew its support from the international banking group (see *infra*, p. 355). The remaining five powers concluded on April 26 a loan of $125,000,000.—In anticipation of the opening of the Chinese National Assembly on April 8, the United States, on April 2, invited the other powers to join in recognizing the Republic of China. On May 1 the American chargé d'affaires at Pekin presented from President Wilson "a greeting of welcome to the new China."—The Russo-Mongolian treaty of November 7, whereby Russia agreed to support the autonomy of outer Mongolia, aroused considerable anti-Russian war-spirit in China. The massing of several thousand soldiers at Tsitsikar gave rise to rumors that the rebellious khutukhta of Mongolia would be coerced, but the troops were destined merely to combat roving bands of outlaws in inner Mongolia.—The Chinese attempt to regain control of **Tibet** was a failure. The few Chinese troops still operating in Tibet were repeatedly worsted. After replying on December 23 in an unsatisfactory manner to the British note of August 17 (see last RECORD, p. 733), the Chinese government sent Went Sung Yao to London to defend Chinese intentions with regard to Tibet.—Meanwhile the khutukhta of Mongolia and the dalai lama of Tibet had formed an alliance on January 21 for mutual protection, for the defense of Buddhism and for the furtherance of trade relations. Persistent rumors that Russia and Great Britain were conniving to alienate the two western provinces from China took surprising form in the semi-official announcement by the Peking *Daily News* of a secret Anglo-Russian treaty for mutual support in the English exploitation of Tibetan mines and in the Russian construction of branch lines of the Urga railway. Dr. Sun Yat-sen led a vigorous campaign for determined resistance to foreign ag-

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gression, but it was recognized that the insecure financial footing of the government made effective opposition difficult.—Friction with Great Britain continued on the subject of the restriction of the opium traffic.—In March Dr. Sun Yat-sen followed up the efforts of Hu-Ying to bring about a **Chino-Japanese** entente, and according to the *Novoye Vremya* a treaty was concluded and a syndicate formed for joint undertakings.—In January the **Persian** government informed Great Britain that the tribesmen who shot the British Captain Eckford in December would be punished. It also requested a loan of $1,750,000 for the reorganization of the gendarmerie; and in February the **British** and **Russian** governments declared their willingness jointly to advance $2,000,000 to Persia. It was also made known that a Russian syndicate had received a concession for a railway between Julfa and Tabriz, and that British syndicates would be granted concessions for constructing the Mohammerah-Khoramabad railway and for opening up southern mines.

AMERICAN RELATIONS.—In the early part of the year the revolutionary movement in **Mexico** (see *infra*, p. 370) seemed to threaten the interests of American residents, especially on the west coast; and a number of warships were therefore despatched to Mexican waters. After the fall of Madero, in view of the possible necessity of intervention, 10,000 men were hurried to Galveston and patrols were strengthened along the frontier. On several occasions the latter came into conflict with Mexican troops, repelling them in one of the skirmishes with a loss of six killed. On March 30 General Huerta, the provisional president, complaining of the shipment of war materials to the rebels, requested a more vigilant guarding of the frontier.—On March 11 President Wilson made an important declaration respecting the policy of his administration towards the states of **Central** and **South America.** The United States had nothing to seek there, he said, except the lasting interests of the people. But coöperation would be possible "only when supported at every turn by the orderly procedure of just government based upon law"; and preference would be given to "those who act in the interest of peace and honor, who protect private rights and respect the restraints of constitutional provisions."—On March 6 Secretary of State Bryan set forth the objections of the United States to an amnesty bill which had passed the Congress of **Cuba** and which would have set at liberty several hundred political and other criminals (see *infra*, p. 371). President Gomez vetoed the bill. In April Great Britain remonstrated against the grant by the Cuban government of a railway concession conflicting with the franchise of the British-owned Cuban Central Railway.—During the revolutionary disturbances of November and December in **Santo Domingo** American warships were sent to protect the property of foreign residents and ensure the safety of the customs service, which is under American administrative control.—At the fifth **Central American Conference** held in San José de Costa Rica an agreement was reached for improving telegraphic service in the five states; the

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adoption of identical naturalization laws was urged; and arrangements were made for joint consular representation by a Costa-Rican consul in Bremen, a Guatemalan in Vigo, a Honduran in Genoa, a Nicaraguan in Havre and a Salvadorean in Liverpool.—The German commercial treaty with **Guatemala** was extended until March 15, 1915. Late in April, the British government presented an ultimatum to Guatemala demanding the immediate payment of the long unpaid debts of the country.—In a note to Bolivia, Dr. Ayala, a former foreign minister of **Paraguay,** demanded the withdrawal of Bolivian troops from a disputed strip of territory in the Chaco region. It was unofficially stated that Dr. Manuel Gondra would take the Paraguayan portfolio of foreign affairs and attempt to settle the controversy. On April 23 the Right Honorable James Bryce retired as British ambassador to the **United States**, being succeeded by Sir Arthur Spring Rice. On November 15 ratifications of an agreement between the United States and Great Britain supplementing the Newfoundland fisheries award (see RECORD of December, 1910, p. 727) were exchanged at Washington. On December 9 Great Britain formally demanded that the United States either repeal the provisions of the Panama Canal Act granting free passage to American coastwise ships or submit the matter to arbitration. In his reply, on January 17, Mr. Knox, defending the American position, maintained that the situation had not yet assumed a phase which made arbitration necessary, no specific acts of alleged discrimination having occurred. In the British rejoinder of March 1 it was contended that, while no discrimination against a British vessel had as yet been committed, the passage of the law was in itself an act of discrimination contrary to the terms of the treaty. Arbitration was again urged. In January a bill repealing the controversial provisions of the act was introduced in the United States Senate by Mr. Root, but though debated, it was not brought to a vote.—In February the arbitration treaty between the United States and France was extended for a period of five years.—On December 29 it was officially stated at St. Petersburg that, notwithstanding the expiration of the commercial treaty with the United States, the minimum tariff rates would continue in effect.—On March 18 President Wilson announced that his administration did not approve the conditions of the proposed six-power loan to China (see last RECORD, p. 733) and that the responsibility which the encouragement of the loan would entail was "obnoxious to the principles upon which the government of our people rests." Following this declaration, the American bankers interested in the loan announced their withdrawal (see *supra*, p. 353).—On April 4 the Japanese ambassador at Washington lodged an informal protest with the secretary of state regarding proposed legislation in California which would prejudicially affect the treaty rights of his countrymen. Formal representations were made a few days later. The bill in question debarred all aliens ineligible to citizenship from leasing or owning land for more than one year. After an exchange of telegrams with Governor Johnson, the secretary of state set out for California where, in confer-

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ences with the governor and legislature, he sought to procure such modifications as would meet the objections of Japan. A new bill, drafted on April 29, permitted all aliens except those eligible to citizenship to acquire and hold land only "in the manner and to the extent and for the purposes prescribed in any treaty now existing." After President Wilson had announced that this would not be satisfactory, an amendment was carried, on May 2, allowing aliens not eligible to citizenship to lease land for a period of three years.

II. THE UNITED STATES

THE ADMINISTRATION.—In January the secretary of commerce and labor affirmed the decisions of the immigration authorities at the port of New York, under which Edward F. Mylius, who had been convicted of a criminal libel upon King George V of Great Britain, and General Cypriano Castro, formerly president of Venezuela, were denied admission to the country as **undesirable aliens.** In both cases a successful appeal was taken to the federal district court. Mylius was admitted on the ground that the offence for which he had been convicted did not involve moral turpitude; Castro, on the ground that he had neither acknowledged the commission of the crime charged against him nor been shown by proper evidence to have committed it. The Mylius case was brought before the circuit court of appeals late in April.—On January 1 the **parcels post** system went into effect throughout the country. According to official estimates six million parcels were transmitted during the first week.—In December the government brought suit in the district court at Los Angeles to compel the Southern Pacific Railroad to release oil lands valued at $250,000,000, it being alleged that the patents had been obtained by fraud. —In November simultaneous raids by post-office inspectors in twenty-two states resulted in more than one hundred arrests for the transmission through the mails of illegal medicines and medical devices.—Among the **appointments** made by President Taft in the last months of his administration were: Larz Anderson, minister to Belgium, to succeed Charles Page Bryan, resigned, as ambassador to Japan; Dr. Carl L. Alsberg as chief of the bureau of chemistry; and Carmi Thomson as treasurer of the United States. In December he named the nine members of the newly-created Commission on Industrial Relations; but these, like most of his late nominations, were not confirmed by the Senate. In December 36,000 fourth-class postmasters and 20,000 skilled laborers in the navy yards were brought within the **civil service** merit system.—On January 20 President Taft accepted appointment as Kent Professor of Law in Yale University.—**Woodrow Wilson** took the oath of office as president of the United States on March 4, the first Democrat to hold the office for sixteen years. His **inaugural address** urged improvement in political and social conditions, emphasis being laid upon the necessity of conserving not only natural resources but the health and efficiency of the people and of reforming the tariff and the

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system of banking and currency. Certain passages of the address indicated that the president would subordinate partisan considerations in the execution of his policies. This purpose was shown later in the renomination of Edgar E. Clark, a Republican member of the Interstate Commerce Commission, and of Charles P. Neill, commissioner of labor under Mr. Taft. Both nominations were finally confirmed.—The **cabinet** appointments, confirmed by the Senate on March 5, were: secretary of state, William Jennings Bryan of Nebraska; secretary of the treasury, William G. McAdoo of New York; secretary of war, Lindley M. Garrison of New Jersey; attorney-general, James C. McReynolds of New York; postmaster-general, Albert S. Burleson of Texas; secretary of the navy, Josephus Daniels of North Carolina; secretary of the interior, Franklin Knight Lane of California; secretary of agriculture, David F. Houston of Missouri; secretary of commerce, William C. Redfield of New York; secretary of labor, William Bauchop Wilson of Pennsylvania.—Among the more important **nominations** of the president were: John Bassett Moore as counselor for the Department of State; John H. Marble as interstate commerce commissioner; John Burke as treasurer; Joseph Davis as commissioner of corporations; Walter H. Page as ambassador to Great Britain; and the following as assistant secretaries: James E. Osborne (State), John Skelton Williams (Treasury), Henry S. Breckenridge (War), Daniel C. Roper (Post Office), Franklin D. Roosevelt (Navy), Beverley D. Galloway (Agriculture), Edwin F. Sweet (Commerce). Willis E. Moore, chief of the weather bureau, was summarily removed from office on April 16, being charged with serious irregularities.—With the opening of **Congress** the President adopted a new practice of visiting the capitol from time to time to confer with members of Congress. This and the oral delivery of his message (see *infra*, p. 359) seemed to foreshadow closer relations between the executive and legislature.—At the beginning of May the president made addresses in New Jersey, urging favorable action by the state legislature during its special session upon the proposed reform of the jury system (see *infra*, p. 362). He warned the party bosses "not too long to show the people of this country that justice cannot be got by the ordinary processes of law." On March 20 Huntington Wilson, acting secretary of state in the absence of Mr. Bryan, resigned from office by way of protest against the abandonment of the proposed Chinese loan by President Wilson (see *supra*, p. 353).—On April 30 the secretary of the treasury announced that hereafter all government depositories, both active and inactive, would be required to pay interest at the rate of two per cent annually on average monthly balances.

CONGRESS.—The third session of the **sixty-second Congress** began on December 2. Following his established practice, President Taft sent his recommendations in a number of separate messages. The most important were: December 3, defending his foreign policy, justifying diplomatic action based on "dollars versus bullets" and considering at length the attitude which should be taken towards the weak Central American

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states; December 6, condemning the propaganda for the independence of the Philippines and proposing the enactment of laws to confer citizenship upon the Porto-Ricans, to reform the currency as recommended by the Monetary Commission and to provide for the building of three battleships; December 19, proposing that the cabinet officers should be admitted to participate in the debates of Congress and that the suffrage should be extended to the residents of the capital; January 8, asking for an appropriation to continue the work of the Commission on Economy and Efficiency; and February 26, emphatically recommending the establishment of a national budget system.—**Acts were passed** providing for the physical valuation of the property of common carriers (see *infra*, p. 365); creating a Public Utilities Commission for the District of Columbia, composed of the three commissioners of the District *ex officio*; extending the application of the eight-hour law; creating a new Department of Labor; and prohibiting the interstate shipment of intoxicating liquors which are intended to be received, possessed, sold or used in violation of the law of the state into which they are shipped (known as the Webb-Kenyon Bill). To the new **Department of Labor** were transferred the Bureau of Immigration and Naturalization, the Children's Bureau and the Bureau of Labor (now Labor Statistics); and the secretary was authorized to act as mediator or to appoint commissioners of conciliation for the purpose of settling labor disputes. President Taft, while signing the bill, declared that a new department was unnecessary and at any rate should not be created until a general reorganization of the departments had taken place. The Webb-Kenyon bill he **vetoed** on February 28, considering it unconstitutional, as a delegation by Congress to the states of the power of regulating interstate commerce; but both houses passed the bill again by more than the required majority, the Senate by a vote of 63 to 21 and the House by 246 to 95. The president also vetoed the Sundry Civil Appropriation Bill, on March 4, stigmatizing as class legislation a clause which exempted labor unions from prosecution for combining to increase wages and improve the conditions of labor; this veto also was overridden in the House, but the bill did not come to a reconsideration in the Senate. The veto, on February 14, of a bill imposing a literacy test upon immigrants was overridden in the Senate but was sustained by a vote of 114 to 213 in the House. By means of a "pocket veto" the president expressed his disapproval of a bill designed to improve the condition of sailors in the merchant marine. The total **appropriations** (including the vetoed Sundry Civil Bill and the Indian Bill, which was killed by obstruction) amounted to $1,098,647,960. In February there was a disagreement between the two branches of Congress with regard to the building programme for the **navy**. In the House, notwithstanding the recommendations of its committee and the message of the president, provision was made for only one battleship; and although the Senate, by a vote of 56 to 16, provided for two, the view of the House prevailed at the close of the session. No provision was made for the continuation of the

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Commerce Court or the Commission on Economy and Efficiency after June 30, 1913. Among the measures which passed only one house were a resolution so to amend the Constitution that the president should be chosen for a six-year term without reëligibility and a bill imposing further restrictions upon campaign contributions.—On December 13 the House unseated Charles C. Bowman, Republican of Pennsylvania, but refused, by a vote of 181 to 88, to seat the contestant.—On February 28 the Democratic members of the House committee which had been investigating the alleged **money trust** reported the existence of "a great and rapidly growing concentration of the control of money and credit in the hands of a few men." For the purpose of checking this domination drastic measures were recommended, including the regulation of stock exchanges. The Republican minority dissented.—In the Senate Judge Archbald of the Commerce Court was removed by impeachment (see *infra*, p. 360). Very few of President Taft's numerous nominations were confirmed.—In pursuance of a proclamation of President Taft the Senate of the **sixty-third Congress** met in special session on March 4. With a majority of five, the Democrats were able, for the first time in eighteen years, to choose a secretary and a sergeant-at-arms of their own party. In the caucus James W. Kern of Indiana was chosen floor leader and James P. Clarke of Alabama president *pro tempore*. On April 7 both Houses assembled in special session "to receive such communications as may be made by the Executive." Champ Clark (Democrat) was reëlected speaker of the House, receiving 272 votes; James R. Mann (Republican) received 111; and Victor Murdock (Progressive), 18. —President Wilson, instead of communicating his **message** in writing, reverted to the Federalist practice and appeared in person before both houses on April 8. His brief address, though indicating that other matters might be brought to the attention of Congress later in the session, was confined entirely to the tariff. He urged Congress to "abolish everything which has even the semblance of privilege or of any kind of artificial advantage," but not to "move towards the end headlong, with reckless haste, or with strokes that cut at the very roots of what has grown up among us by long process and at our invitation."—A **tariff bill**, understood to have the full approval of the president, was introduced by Mr. Underwood. This bill, which has been under discussion in Committee of the Whole, places raw wool on the free list and radically changes the woolen and cotton schedules; reduces the tariff on sugar and provides for its abolition in three years; places sawed lumber and steel rails on the free list and reduces all duties on iron and steel products; either abolishes or greatly modifies the duties on "market basket" necessities, such as meat and flour; establishes unqualified free trade with the Philippines; and maintains the present high tariff on luxuries. *Ad valorem* rates are substituted for specific. In order to cover the deficit expected under the new scale of duties provision is made for a graduated **income tax**, with a rate of one per cent on incomes over $4,000 and under $20,000, and a surtax of one, two and three per cent on larger incomes.

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THE FEDERAL JUDICIARY.—Formal proceedings in the **impeachment** of Judge Robert D. Archbald of the Commerce Court (see last RECORD, p. 739) began on December 3 and ended on January 13, when the Senate found him guilty on five of the thirteen articles of impeachment. On the fifth article, charging that he had obtained the Katydid culm bank through improper influence, the vote was 68 to 5. The Senate unanimously sentenced him to removal from office and afterwards declared him permanently disqualified for the holding of any office of honor, trust or profit under the United States.—Among the more important decisions of the **Supreme Court** were the following. Federal questions not raised in the court below cannot be reviewed in the federal Supreme Court on a writ of error (Selover, Bates and Company *v.* Walsh, 33 S. C. R. 69). A writ of error will not be dismissed because, since the allowance of the writ, the constitutional question raised has been decided by such court adversely to plaintiff in error in another case (Michigan Central Railway Company *v.* Vreeland, 33 S. C. R. 192). Judicial powers are not unconstitutionally vested in the executive branch of the government by an act allowing the deportation of an alien for practising prostitution within three years after entry, though the inquiry devolves upon the department of commerce and labor and its findings are conclusive (Zakonaite *v.* Wolf, 33 S. C. R. 31). —Liberty to contract is not abridged in violation of the **fourteenth amendment** by the provisions of a state law which punishes the selling of goods at a lower rate in one place than another in order to destroy competition (Central Lumber Company *v.* South Dakota, 33 S. C. R. 66). Due process of law is not denied to a carrier by the imposition under a state law of a penalty for failing to settle a claim for damages within sixty days from the notice of the claim (Yazoo and Mississippi Railroad Company *v.* Jackson Vinegar Company, 33 S. C. R. 40). The prohibitions and guaranties of the fourteenth amendment are addressed to and control, not only the state, but also every person, whether natural or juridical, who is a repository of state power (Home Telephone and Telegraph Company *v.* the City of Los Angeles, 33 S. C. R. 312). The existence of a demand for bread of sizes other than those fixed by a city ordinance does not render the ordinance invalid as interfering with the freedom to contract protected by the fourteenth amendment (Schmidinger *v.* Chicago, 33 S. C. R. 182). No federal question is presented by a judgment of the highest court of a state denying the claim of a policeman that he could not be dropped from the pay-rolls summarily without a violation of the fourteenth amendment (Preston *v.* Chicago, 33 S. C. R. 177). The government which the Organic Act of 1900 established in Porto Rico is not taken out of the general rule that a government sovereign in its attributes is exempt from being sued without its own consent (People of Porto Rico *v.* Rosaly y Castillo, 33 S. C. R. 352). National banks cannot claim that, as to dealings after the Kansas depositors' guaranty law of 1909 went into effect, their property was taken without due process of law, in that they are not permitted to

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share equally with depositors under that statute in the assets of an insolvent state bank (Abilene National Bank *v.* Dolley, 33 S. C. R. 409).

[For other decisions of the court, see The Railroads and the Trust Problem and Labor and Capital, *infra.*]

STATE AFFAIRS.—The **sixteenth amendment** to the federal Constitution, which empowers Congress to levy a tax on incomes, "from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration," was proclaimed as a formal part of the Constitution in April, ratification by the necessary three-fourths of the states having been completed on February 3. The minority of non-ratifying states consisted of Connecticut, Florida, Massachusetts, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, Utah, Vermont and Virginia. With the favorable action of the General Assembly of Connecticut on April 8, it was assumed that thirty-six states or the necessary three-fourths had ratified the proposed **seventeenth amendment**, providing for the direct election of United States senators. It was discovered, however, that the legislature of Wisconsin had not ratified the amendment as submitted by Congress, but an alternative draft which Congress had failed to approve. The thirteen states which had not yet ratified are Alabama, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Montana, Rhode Island, South Carolina, Utah, Virginia and Wisconsin. —On January 13 the **presidential electors** met at the capitals of the various states and formally cast ballots for president and vice-president. Wilson received 435 votes; Roosevelt, 88; Taft, 8. The California electoral vote was split: Roosevelt, 11; Wilson, 2. The votes of the eight Republican electors of Vermont and Utah were cast for Nicholas Murray Butler as vice-president in place of the late James S. Sherman. According to the corrected returns the popular votes of the candidates were: Wilson, 6,282,542; Roosevelt, 4,114,583; and Taft, 3,480,479.—The fifth annual **Conference of Governors** opened at Richmond on December 3, with twenty-seven state executives in attendance. It was decided to make the organization permanent and to continue the practice of holding annual assemblies. Former governors will enjoy all the privileges of membership except the right to vote. A committee was appointed to examine into systems of rural credits. —In the November elections constitutional amendments providing for **woman suffrage** were adopted in Arizona, Kansas and Oregon, but rejected in Michigan and Wisconsin; and a second submission of the amendment in Michigan on April 7 resulted in its defeat by a majority of more than 100,000. During the spring woman-suffrage amendments were brought before the legislatures of many states. In Alaska, Iowa, New Jersey and New York they passed for the first time; in Montana, North Dakota and South Dakota they are to be submitted to the people at the next election.— The **initiative and referendum** were adopted by popular vote in Idaho, Michigan and Nebraska, but rejected in Mississippi and Wyoming; and having passed the legislature a second time, they will be submitted to the

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people of North Dakota in 1914. The **recall** was adopted in Arizona (including judges), Colorado (including judges and judicial decisions), Idaho, Michigan and Washington; it was defeated in Louisiana.—During the spring session of the **state legislatures** Idaho, Indiana, Maine, Missouri and West Virginia made provision for public utilities commissions; Maine and Ohio passed employer's liability laws; Colorado, Delaware and Idaho placed limitations upon the working hours of women; Arkansas, Idaho and North Dakota passed laws against fraudulent promoters; Idaho, New Jersey, Ohio, Pennsylvania and Utah provided for the pensioning of dependent mothers, the New Jersey law allowing $15 a month to a mother with one child under fourteen years of age and $7 for each additional child under that age.—Allegations of legislative **corruption** were made in several states. On March 13 a Massachusetts senator who refused to apologize for charging that a fellow member had attempted to bribe him was suspended indefinitely, although he had demanded and been refused an open trial. On April 16 a member of the lower house in New Hampshire was expelled on the charge of offering to sell his vote. In April the judiciary committee of the New York senate conducted an investigation into charges that Senator S. J. Stilwell had attempted to extort a bribe of $3500 for getting a bill reported from committees in both houses. The judiciary committee reported that the charges were sustained, but the Senate voted for acquittal, 28 to 21. On February 14 six members of the West Virginia legislature were indicted, five of them on the charge of receiving bribes in connection with the balloting for United States senator.—In November **Arizona** adopted a constitutional amendment permitting the state and municipalities to engage in industrial pursuits.—In April Major J. F. Strong was named as governor of **Alaska** in succession to Walter E. Clark, resigned.—In **California** a bill restricting alien holding of land was strongly supported in both houses of the legislature; for the resulting international complications see *supra*, p. 355.—In November **Colorado** voted against state-wide prohibition.—Local-option elections were held in **Illinois** in April; 70 per cent of the area of the state is now dry. A committee of the Senate conducted, in March, an investigation into vice conditions in Chicago, giving especial attention to the question of establishing a minimum wage for women.—The supreme court of **Mississippi** upheld the constitutionality of a ten-hour law.—A coalition of Democrats and Progressives in the **New Hampshire** legislature secured, on January 2, the choice of Samuel D. Felker, Democrat, as governor.—On January 14 Governor Wilson sent his last message to the **New Jersey** legislature, urging many reforms. Reluctantly and under pressure from the governor the legislature passed seven laws intended to subject corporations to more rigorous regulation and fixing heavy penalties for restraint of trade. Upon the resignation of Governor Wilson, on March 1, the president of the Senate, James F. Fielder, succeeded to the office. When the legislature adjourned without passing a law for the reform of the jury system, he called a special session for May 6.—On

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March 4 a commission of inquiry appointed by Governor Sulzer of **New York** laid before the legislature a report urging large reductions in departmental appropriations, the abolition of many useless offices and other reforms. As a result of the report bills were passed establishing a new Department of Economy and Efficiency and a State Board of Estimate (including the governor, the lieutenant-governor and the leaders of the two houses) which will henceforth prepare the annual budget. On April 24 the governor vetoed a direct primary bill, denouncing it as "wholly fraudulent" and "enacted in bad faith." The Democratic caucus, however, determined that no action should be taken upon the substitute bill submitted by the governor.—On December 24 Governor Blease of **South Carolina** pardoned 79 convicts, 17 of whom had been condemned for murder.—In the elections of March 4 eight constitutional amendments were carried in **Vermont**, including one which changed the date of state elections from September to November.—The **Washington** legislature passed a wage law for women, under which a commission is established to fix minimum wages after an investigation of any industry in which such investigation is demanded.

MUNICIPAL AFFAIRS.—The progress of **commission government** continues to be rapid: 250 cities have adopted it so far, an increase of almost 50 during six months. Denver, Duluth, Jersey City, Lexington, and Richmond are among the number. Los Angeles, Portland (Oregon), Savannah and a number of other cities recently voted against the plan.—In the November **elections** the state constitution of Texas was amended so as to permit cities of over 5000 inhabitants to adopt or amend their charters at intervals of two years. Nebraska and Michigan enacted similar measures. In Virginia the home rule movement took the form of an amendment under which general laws prescribing the form of city government shall be referred to the local voters.—The first **recall** of a judicial officer in California took place on April 22, when a police magistrate in San Francisco was removed on grounds of incompetency, an attorney put forward by women petitioners succeeding to the place. The vote was about two-thirds of the normal. In December ineffectual attempts were made to recall the mayors of Los Angeles, California and Ocean City, New Jersey. In November, when a petition was presented for the recall of Mayor Cotterill of Seattle, it was found that twelve thousand of the twenty thousand signatures were fraudulent.—The Socialists lost control of Berkeley, California, on April 6, when all but one of their candidates, a woman running for the school board, were beaten in the primaries. On December 18 a woman was elected mayor of Warrentown, Oregon. In Atlantic City, in December, a woman twenty-four years of age was appointed comptroller.—On January 24 it was held by the circuit court that a Chicago ordinance providing for universal transfers between elevated railroads was beyond the competence of the council to enact. Arrangements have been made for the merging of all the elevated and surface lines into one corporation and

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the construction by it of a subway system.—On February 14 the people of Denver adopted measures providing for non-partisan primaries, the preferential system of voting and the reduction of telephone rates.—Municipal ownership of the street railway system was endorsed by a vote of four to one in Detroit on April 8.—The annual appropriations of New York City in 1913 exceeded $193,000,000, an increase of $12,000,000 over the previous year.—In March, after long negotiations, contracts were awarded for a large extension of the subway system and the third-tracking of elevated lines.—Evidence of municipal **corruption** was brought to light in several cities. On November 29 Charles H. Hyde formerly chamberlain of New York City, was found guilty of bribery in the manipulation of city funds on deposit (see RECORD of June, 1911, p. 363). The trial, which took place eighteen months after the indictment, occupied only eight days. After the conviction of Police Lieutenant Becker (see last RECORD, p. 742), the four "gunmen" whom he had procured to take the life of the gambler Rosenthal were also convicted. District-Attorney Whitman then began a thorough investigation of the corrupt alliance supposed to exist between the police and the underworld. Partly through confessions made by a police captain and a patrolman, he was able to secure the indictment of four inspectors, all on charges of bribery. In April the four were jointly indicted for obstructing justice in the attempt to keep a witness out of the jurisdiction of the grand jury; and on that charge they were brought to trial on the 29th of the month. Meanwhile one patrolman was convicted of perjury and another of extortion, and the latter was sentenced to a term of six to ten years in the state prison. Both were alleged to be allies of Dennis Sweeney, one of the indicted inspectors. In April, following investigation by a legislative committee, bills were introduced in the state Senate under which the police would be put more fully under local control, but would no longer be entrusted with the regulation of vice. In Chicago, evidence was given in January, that the police had collected large sums of money to secure favorable legislation from the city council. Investigations by a vice commission disclosed corrupt relations between the police and illicit resorts. On April 19 the sheriff, a constable, a former mayor and an assistant prosecutor who had recently resigned were indicted in connection with gambling scandals at Hot Springs, Arkansas. In February two councillors and a former director of public safety were convicted of conspiracy to defraud the city of Philadelphia. An alderman of Rockland, Maine, was convicted of blackmail in the supreme court in April.

THE TRUST PROBLEM AND THE RAILROADS.—On January 20, in reversing a decision of the Commerce Court on the ground that the limitations upon its power of reviewing decisions of the **Interstate Commerce Commission** had been exceeded, the Supreme Court examined the powers of the commission also and indicated that its orders could issue only after hearings, and that the hearings must embody, for the information of the defendant carriers, all the evidence used by the commission in arriving at

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its decision. Upholding an order of the commission, the Commerce Court decided, on April 25, that no state may, by its railroad rates, impede the flow of commerce from other states or protect its own shippers from outside competition. The discriminatory rates had been imposed by Texas and attacked by Louisiana. In January the attorney-general requested the commission to make a thorough investigation into the rates and practices of telephone companies, so as to determine reasonable maximum rates and to frame rules governing their dealings with the public and with other companies. In April the commission reported that Colorado railroads had been illegally issuing passes in order to influence the routing of freight shipments; indictments have already been found against several large shippers and the offending carriers. In March Congress passed a law for the **physical valuation** of the property of all common carriers, including telephone and telegraph companies. The Interstate Commerce Commission, which is making the valuation through a corps of expert engineers, is to determine the amount which has been expended upon the properties, the cost of reproduction at the present time and the value of franchises and good will. Under authority of Congress the commission has begun an investigation to determine the relations between railroad and steamship lines, with the purpose of preventing the use of the Panama canal by railroad-owned lines and of restoring freedom of competition between land and water carriers. On April 25 the Commerce Court sustained the right of the commission to compel the Lehigh Valley Railroad Company to reduce rates on anthracite coal from the Wyoming region to Perth Amboy.—Numerous prosecutions and convictions under the **Sherman Act** have taken place. On November 18 the Supreme Court, affirming the decision of the district court in Maryland, ordered the dissolution of the so-called bathtub trust as a combination in restraint of trade, holding that "license agreements" are illegal and that there can be no monopoly in the unpatented product of a patented machine. On February 14 the individuals and corporations forming the trust were found guilty of criminal conspiracy at Detroit; and fines aggregating $51,000 were imposed. An earlier trial had resulted in a disagreement. In December indictments against the American Sugar Refining Company and individuals were dismissed on motion of the government, necessary evidence being excluded by reason of the statute of limitations. On February 6 the shoe-last trust was dissolved at Detroit; the court holding, among other things, that it is unlawful to combine patented and unpatented articles in such a way as to fix the price of the unpatented articles. On February 3 the Supreme Court unanimously sustained the district court of Massachusetts in dismissing counts in an indictment of the United Shoe Machinery Company which declared it a combination in restraint of trade. On February 13 twenty-nine officials of the National Cash Register Company were convicted at Cincinnati of criminal conspiracy under the Sherman Act. The president, J. H. Patterson, was sentenced to a fine of $5000 and a year's imprisonment; the others, for terms varying from three months to a

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year. Following a decision of the Supreme Court that a corner in any commodity transported in interstate commerce constitutes a restraint of trade, James A. Patten, indicted at New York for conspiracy to corner the cotton market in 1909, pleaded guilty on February 4 and was fined $4000. On March 4 the federal district court at New York ordered the dissolution of the coal-tar trust. On January 9 the same court enjoined various eastern associations of retail lumber dealers from blacklisting wholesalers who trespassed upon the retail field and from various other practices in restraint of trade. Under orders from the attorney-general of the United States, three indictments against the beef trust in the federal court at Chicago (see last RECORD, p. 747) were nol-prossed on February 25, these indictments being the same as a fourth on which the defendants had been tried and acquitted. On December 14 the government entered suit for the dissolution of the Elgin (Illinois) Board of Trade and the American Association of Creamery Butter Manufacturers, which were charged with fixing prices in the interest of large producers and cold-storage companies. In the suit for the dissolution of the Steel Corporation (see last RECORD, p. 747), William E. Corey, formerly its president, gave evidence favorable to the prosecution. In March a suit was entered against the American Thread Company and other concerns on the charge of conspiracy in restraint of trade. In New York the government asked for the dissolution of the Corn Products Refining Company. On December 12 the supreme court of Missouri handed down a permanent order of ouster against the **Standard Oil Company**; and in April Governor Major vetoed a bill overriding the ouster and permitting the company to do business in the state. On December 2 the Supreme Court unanimously ordered the dissolution of the Union Pacific and Southern Pacific **railroad merger**, which was brought about when the first of these companies acquired 46 per cent of the stock of the other. The decree provided that plans for the dissolution should be presented to the court within three months. On January 6 the court refused to accept an arrangement for the distribution of stock. But delay was granted; and at the close of this RECORD dissolution had not yet taken place, further difficulties having arisen through the necessity of securing the approval of the plans by the California railroad commission, which would otherwise withhold the concession of certain terminal facilities. On December 16 the Supreme Court found that the existence of an anthracite coal trust had not been established by the government; but in view of the fact that a majority of the stock of the Temple Iron Company had been purchased by the existing railroads for the purpose of preventing the construction of a new road into the anthracite region, it ordered a dissolution of the interests controlling that company. On December 23 the federal grand jury at New York indicted the president of the New York, New Haven and Hartford Railroad and the president and chairman of the board of directors of the Grand Trunk Railroad, on the charge of having entered into an unlawful combination whereby the latter road, in return for traffic concessions, desisted from its

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project of extending lines to Providence and Boston and of establishing a steamship service between Providence and New York. In February suit was brought against two Chicago labor unions for violation of the Sherman Act in interfering with interstate messages of the Postal Telegraph Company during a strike.

LABOR AND CAPITAL.—The controversy between the eastern **railroads** and their engineers (see last RECORD, p. 749), involving demands for the increase and standardization of pay, was submitted to an arbitration board of five members. The award, announced late in November, effected improvements in the rules governing the conditions of work and fixed a minimum wage for each of the different services (passenger, fast freight *etc.*). The board suggested the creation of a national wage commission which should exercise functions regarding labor engaged in work on public utilities analogous to those exercised regarding capital by the public service commissions. The same railroads averted a strike of 31,000 firemen in February, by submitting the questions at issue to arbitration under the Erdman act. The hearings of the board, which sat in New York, lasted until April 6. Late in the month the award was made: the firemen are to receive an average advance of 10 to 12 per cent; the wages, which are to be uniform for the same class or services on all the roads, are to be determined by the classification of engines according to their weight on drivers; where wages are higher or working conditions better than those prescribed in the award, such wages and conditions are not to be affected by its terms. —On March 28 the Pennsylvania Railroad announced that the wages of 690 men in its telegraph department would be increased by an annual aggregate of $25,000. On December 31 more than 100,000 **garment-makers** struck in New York City, demanding higher wages and shorter hours. They were joined, during the early part of January, by forty or fifty thousand members of other clothing-trade unions, making the movement the most formidable that had ever taken place in the industry. The employers gradually gave way. First a protocol was signed, under which the waist-makers secured a substantial increase of wages, a fifty-four hour week and recognition of the preferential union shop principle. It was not, however, until March 1 that the main body of strikers accepted a wage increase and arbitration to determine the hours of labor. Some held aloof till the middle of the month. In February a strike of some 14,000 garment-makers began in Boston. During the next month various employers were forced to make substantial concessions; and on April 21 the last strikers returned to work under an agreement which recognized the union, increased wages and reduced the hours of labor to fifty a week.—In the middle of February the weavers employed in the silk mills at Paterson, New Jersey, struck for higher wages, an eight-hour day and the abolition of the four-loom system. They were directed by William D. Haywood and other organizers of the **Industrial Workers of the World.** Asserting that this organization could not be trusted to adhere to any agreement, the

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manufacturers refused, in April, to enter a conference with a committee of aldermen and citizens. Late in the month the American Federation of Labor tried unsuccessfully to organize the weavers, take control of the strike and bring it to an end. On April 25 five of the leaders of the strike, including Haywood, were indicted for inciting to riot. In February Haywood was removed from the national executive committee of the Socialist party by a vote of 22,500 to 11,000, his utterances in favor of "direct action" having given offence. The strike of textile workers at Little Falls, New York, which was directed by the Industrial Workers (see last RECORD, p. 749), terminated on January 2, the manufacturers having conceded an increase in wages. A strike of waiters and cooks employed in New York hotels, also under the direction of the Industrial Workers, failed completely in January. Joseph Caruso, Joseph J. Ettor and Arturo Giovannitti, charged with murder in connection with the Lawrence textile strike (see last RECORD, p. 749), were acquitted at Salem, Massachusetts, on November 26. In North Providence, Rhode Island, 600 striking textile operatives were allowed to return to work in April only when they had signed an agreement to withdraw permanently from the Industrial Workers. At Pueblo, California, and at various points in Colorado agitators belonging to this organization were either expelled from the towns or sentenced to imprisonment with hard labor.—On November 23 Eugene V. Debs and two others were indicted for the obstruction of justice in persuading witnesses to leave the country so as to avoid giving evidence against a socialist newspaper proprietor.—The trial of forty-six labor men, charged with entering into a conspiracy to transport explosives on interstate passenger trains (see last RECORD, p. 748), lasted for three months. On December 30 thirty-nine of the accused were convicted. Of these Frank M. Ryan, president of the International Association of Bridge and Structural Ironworkers, received the heaviest sentence, seven years. Eight others, then or formerly officials of labor unions, received sentences of six years. The trial of Clarence S. Darrow, accused of bribing a juror in the McNamara trial at Los Angeles (see last RECORD, p. 748), ended in March with a disagreement of the jury.—In March, men employed in the cordage shops of the Columbian Rope Company and the International Harvester Company at Auburn, New York, struck for recognition of their union and for higher wages. Concessions made by the Columbian Company were accepted on April 21; but the Harvester Company, failing to reach an agreement with its 2400 employees, dismantled its works with the intention of transferring the plant to Germany. At the close of this RECORD it appeared probable that some compromise would be arranged through the offices of the state board of mediation.—During the second week of April a **street railway** strike occurred in Buffalo, the men demanding recognition of their union, a flat rate of 32 cents an hour and other concessions. Such violence followed the company's attempts to run cars that three regiments of the national guard had to be ordered out. A general strike was threatened by

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the Labor Council, but an early settlement was reached through the efforts of business men. The company recognized the union. All other differences which the parties to the dispute should be unable to settle were to be submitted to an arbitration board. Early in January a street railway strike took place in Yonkers, New York. Not a car moved for two weeks. In conformity with the proposal of the Public Service Commission, both sides agreed to resort to arbitration. In April an increase of wages, ranging from one-half of a cent to one cent per hour, was promised to the 7000 employees of the Philadelphia street railway.—A strike of laborers employed upon the state highways not far from New York City was brought to an end on April 16 only after serious **conflicts** with the police and some bloodshed. The contractors raised wages to $2 a day and agreed to arbitrate the demand of the men for an eight-hour day. In Maryville, Louisiana, the state troops had to be called out in February after four had been killed and twenty-four injured in labor riots. On April 16 several Italian strikers were seriously injured at Milford, Massachusetts, in a conflict with the police. A strike of 1500 employees of the wire mills at Rankin, Pennsylvania, was marked by serious rioting in January and the killing of several persons. Early in February all but 200 of the men returned to work. —In February 8000 men employed in the **collieries** of the Delaware, Lackawanna and Western Railroad went on strike, for the purpose of forcing non-union men to join the United Mine Workers of America. Less than a year before, the miners had entered into an agreement with the operators that they would not refuse to work with non-union men.—The strike of 10,000 miners in the coal regions of West Virginia, which began in April, 1912, assumed a grave aspect in February when 26 men were killed and twenty or more wounded in a conflict between railroad police and armed strikers. Martial law was proclaimed. On March 22, in consideration of a semi-monthly pay-day and other concessions, 3000 men returned to work. Late in April Governor Hatfield made efforts to end the strike.—The Connecticut supreme court of errors decided, on April 18, that **closed shop** agreements which make it impossible for non-union men to obtain work are illegal conspiracies; and a non-union craftsman thus debarred from work has the right to maintain a suit for damages against the union which procures his discharge from a closed shop and prevents his employment in other closed shops.

LYNCHING AND THE RACE PROBLEM.—Speaking before the Conference of Governors (see *supra*, p. 361), Governor Blease of South Carolina justified the practice of lynching and asserted that he would willingly lead a mob whenever a negro was guilty of assaulting a white woman. A resolution, proposed by the governor of Virginia and adopted by the conference, declared unequivocally for the enforcement of law.—The total number of negroes lynched in the year 1912 appears to be 69. Not one-fifth of these were charged with assaults upon white women. During the first four months of 1913 only 13 lynchings took place, and none of the

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men lynched was charged with rape. In Houston, Mississippi, where a woman had been killed early in February, the mob first hanged an innocent negro and afterwards burned to death the confessed murderer. The mob of a thousand persons included the sheriff and his posse.—In January an important case affecting the "**Jim Crow**" **law** of Mississippi was docketed in the Supreme Court, appeal having been taken from the decision of the highest state court under which a white woman was awarded $2000 damages because separate sleeping-cars had not been provided for negroes.

THE DEPENDENCIES.—On December 6 President Taft sent a message to Congress, condemning the principle of the Jones Bill, which would grant independence to the **Philippines** in 1921 (see RECORD of June, 1912, p. 367), and predicting that it would retard the progress of the islands by producing dissension and disorder. In a public utterance late in January he made this position still more emphatic. He insisted that, besides working injury to the Filipinos themselves, independence would involve the United States in international complications and damage her prestige so as to force an eventual resumption of control. The bill failed in the House of Representatives, where not only the Republicans but some leading Democrats opposed it. On April 9 the commissioners from the Philippines made representations to President Wilson favorable to independence.—In January sharp fighting between Moros and the constabulary occured near the city of Jolo, one American being killed and six wounded in one engagement.—On March 25 a Filipino, charged with stealing military plans of the Corregidor fortifications, was sentenced to nine months' imprisonment. Two blueprints of the plans had already been conveyed to Japan.

III. LATIN AMERICA

MEXICO.—The successful repression of the Diaz revolt in October (see last RECORD, p. 752) and the defeat of the rebel Zapatistas in the south on November 8 filled the Madero government with a false sense of security which allowed it to suspend the death sentence on General Diaz. The confidence of the government was rudely shocked when, on February 9, a portion of the federal army in Mexico City liberated Generals Diaz and Reyes from prison and declared a **revolt.** In the street fighting that followed, General Reyes was killed and many civilians were injured. General Diaz, who now declared himself president, seized the arsenal and opened fire on the government troops in the national palace. On February 16 a twenty-four hour truce enabled foreign residents to take refuge in their legations. On the 18th President Madero's commander-in-chief, General Huerta, went over to the rebels and arrested Madero. On the following day Huerta, assuming the title of **provisional president,** called a session of the Chamber for April and, two days later, formed a cabinet, with Señor de la Barra as minister of foreign affairs, Señor Granados as

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minister of the interior, Señor Rodolfo Reyes as minister of Justice, Señor V. Estanol as minister of education, Señor Alberto Gil as minister of industry, Señor T. Obregon as minister of finance and Señor de la Fuente as minister of public works. In order to secure the position of the new government, many Maderistas, including the ex-president and ex-vice-president, were either executed or "accidentally shot." The rebel generals Orozco and Vasquez Gomez submitted to the new government, but serious armed opposition was encountered in the northern states. Colonel Carranza, governor of Coahuila, proclaimed himself provisional president. The state troops of Sonora remained hostile to Huerta and, after subduing General Ojeda's Federalist troops in the border town of Naco in April, attacked a body of 600 Federals in Guaymas. Serious financial difficulties and fresh outbreaks of Zapatista activity added to the insecurity of Huerta. Nevertheless, in opening the **Chamber**, he unfolded optimistic plans for the creation of a standing army of 80,000 men, with which to restore order, and expressed his willingness to turn the presidential office over to the successful contestant in the coming elections. The withdrawal on April 24 of the candidacy of General Diaz for the presidency was calculated to unify the Diaz-Huerta party in support of Huerta.

CARIBBEAN AND CENTRAL AMERICAN STATES.—The complete returns from the elections in **Cuba** indicated a clean sweep for the Conservatives, with General Menocal as president, Señor Varona as vice-president, five Conservative provincial governors, a Conservative majority of two in the Senate and of five in the lower house. Disquieting rumors of Zayista plots were not completely quieted until the Congress in joint session on April 21 formally proclaimed Menocal president. An amnesty bill objected to by the United States (see *supra*, p. 354) was passed on April 25 in a modified and inoffensive form. The new president, who for years had been interested in the sugar industry, promised a policy of agricultural and commercial development in harmony with the interests of the United States. —The Republic of **Santo Domingo** found it difficult to keep its presidential chair filled. On December 2, the Congress elected Archbishop Noval provisional president for two years, to take office at once. His resignation was followed on April 13 by the election of José Borda Valdez.

SOUTH AMERICA.—An uprising in the state of Trujillo of **Venezuela** was led by Juan Aranja as a protest against the reported desire of President Juan Vincente Gomez for reëlection.—After a vote of censure in the senate, the prime minister of **Peru**, Dr. Elias Malpartida, tendered his resignation.—In November violent outbreaks against the factories of ex-President Accroly were reported in the **Brazilian** province of Ceara. On February 1, the minister of agriculture concluded with the Society for Trade, Industry and Agriculture a contract which provided for the importation and settlement of 10,000 European emigrant families.—President Schaerer of **Paraguay** gave evidence of his desire to conciliate the Colorado (Republican) party by the appointment of Mayor Garay as minister to

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Bolivia and of Dr. Moreno to Peru and Chile. The formation of a Patriotic Union for National Defence was regarded as another effort to strengthen the position of the administration.—An interesting movement for constitutional revision was on foot in **Uruguay**. It was proposed to vest legislative-veto and appointive power in an executive committee of nine, elected in rotation, each for nine years. In place of the president, there would be a chairman elected by the committee and subject to recall.—With the prospect of increased industrial activity following the opening of the Panama Canal, the **Chilean** government contemplated raising $25,000,000 on an internal loan in order to improve the state railways. In January a new Chilean ministry was formed, in which Señor Barros retained the portfolio of the interior, Señor Enrique Villegas assumed that of foreign affairs, Señor Anibal Letelier justice, Señor Manuel Revas finance, Señor Jorge Matte war and Señor Oscar Viel industry.

IV. THE BRITISH EMPIRE

IMPERIAL AFFAIRS.—The decision of English Unionists to abandon the idea of promoting imperial unity by establishing **preferential customs duties** on food in Great Britain provoked general criticism in the dominions. Nevertheless, Canada extended her preferential agreements to include all British dependencies.—Although the total amount of **emigration** from Great Britain in 1912 had increased, the number of British immigrants to Canada and to South Africa decreased, while Australia and New Zealand attracted more settlers than previously.

THE UNITED KINGDOM.—Despite some dissension on the woman-suffrage issue and on the details of several pending bills, the Liberal-Labor Nationalist coalition continued to support the Asquith ministry. The presence of the prime minister and of Mr. John Redmond on the same platform at Nottingham in November was interpreted as a sign of particular harmony between Liberals and Nationalists. On the other hand, the Unionist opposition to the government seemed to be, at least temporarily, on the wane. The physicians who had refused to serve at the low rates provided by the Insurance Act were won over through a compromise offered by Mr. Lloyd George. Effective Unionist action was seriously impeded by irreconcilable differences on the fundamental question of a tariff on food stuffs. Mr. Bonar Law, the Conservative leader, outlined on January 24 a new policy of "no new duties on food," which was speedily condemned at the annual London conference of the Tariff Reform League. Reports that Mr. Lloyd George, Postmaster-General Sir Godfrey Isaacs and Attorney-General Sir Rufus Isaacs had speculated in stocks of the Marconi Wireless Company, which had made bids for the erection of governmental wireless stations, led to a protracted investigation, but the inquiry failed to disclose any corrupt practices. An inquiry into Sir Stuart Samuel's connection with the governmental purchase of Indian silver ended in the same way; by the Commons' rules, however, Sir Stuart's seat was

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vacated.—Meanwhile the ministry were pressing their legislative program in Parliament. While in committee stage the Irish **Home Rule Bill** (see RECORD of June, 1912, p. 370) was so amended as to allow after the first five years proportional representation by provinces in the Senate. After the conclusion of the committee stage on December 13, the bill was reported and passed third reading on January 16 by a vote of 367 to 257. The Lords rejected the bill on second reading, January 30. In April, the Independent Nationalists, headed by Mr. William O'Brien, agitated for home rule by consent, but it seemed unlikely that a compromise would be adopted.—The Welsh Church Disestablishment Bill (see RECORD of June, 1912, p. 371) passed third reading in the Commons on February 5 and was subsequently rejected by a majority of 201 in the House of Lords.—Woman-suffrage amendments to the Franchise and Registration Bill (see last RECORD, p. 754) became so involved in controversy that the bill was withdrawn on January 31, following a decision of the speaker to the effect that the amendments were incompatible with the original bill.—The Trade Unions Bill (see last RECORD p. 754), amended so as to afford some protection to minorities, received final sanction from the House of Lords on February 19. At the same time a Railway Bill passed third reading, permitting railway owners to adjust their rates as compensation for concessions to labor. A Criminal Law Amendment Act, promulgated in December, was directed against the white-slave traffic. At the end of the session in February, the Scottish Temperance Bill was dropped.—After a well-earned vacation, Parliament re-assembled on March 10. Aside from the budget, only minor issues were slated for the spring session. . The idiocy laws of 1886 were reformed by the Mental Deficiency Act of March 31. Grants were proposed to further agricultural coöperation in Ireland and cotton raising in the Sudan. The **budget** for 1913–14 showed a total expenditure of £158,416,338 of which £20,098,623 was for old-age pensions, national insurance and labor-exchanges, and £74,529,300 for defence. An increase of £360,000 in the army bill was due to increased pay and to the appropriation of £234,000 for aviation. The provision for an increase of £1,233,900 in the naval expenditure, bringing the total appropriation up to £46,309,000, failed to placate the naval critics, and Mr. Churchill's administration of the navy was condemned as inefficient by Mr. Bonar Law and Lord Beresford.—The most serious attacks on the government came from the **woman suffragists**. After the withdrawal of the Franchise Bill and the defeat of Mr. Snowden's suffrage amendment to the Home Rule Bill, the militants adopted tactics of unprecedented violence. Mail was burned in the pillar-boxes, vacant dwellings were fired, railway coaches were destroyed, and countless other methods of attack on property were pursued. Forcible feeding failed in seven or eight cases (including that of Mrs. Pankhurst herself) to prevent the success of the "hunger-strike" as a method of obtaining release from prison, and it was found necessary to pass a bill for the reincarceration of prisoners after recovery from their

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self-imposed starvation tactics. The alleged harsh treatment of suffragist prisoners and the failure of the government to enact suffrage legislation elicited a formal decision from the National Union of Women's Suffrage Societies to work against the Liberal candidates in future parliamentary elections and to coöperate with pro-suffrage Laborites.—In spite of the deleterious influence of the Balkan War, **industrial conditions** were generally prosperous. After eleven weeks a peaceful strike of the London motorcab drivers resulted in complete victory for the men. By an agreement adopted in October by the Coal Conciliation Board for the federated districts of England and North Wales, 400,000 colliery workers were to receive a wage increase of 1*s* per week. In April the South Wales miners decided to call strikes on April 30 at all collieries where non-unionists were still employed. Threatened strikes of the London bakers and of the employees of the Midland and Northeastern railways were averted by timely concessions.—Sir Henry Jackson was appointed chief of the war staff in November. In December Prince Louis of Battenberg succeeded Sir Francis Budgeman as first sea lord. The Rt. Hon. Ignatius J. O'Brien was appointed lord chancellor of Ireland.—A "secret" **land inquiry**, conducted by Mr. Lloyd George, evoked protests from Unionist landowners, but its object, the investigation of agrarian abuses, won applause from the advocates of social reform.—In the March elections in **London** the Municipal Reformers obtained a majority on the county council.

CANADA.—With the opening of the **Dominion Parliament** on November 21, the naval question (see last RECORD, p. 756) became a hotly contested issue. Mr. Monk gave up the portfolio of public works because he could not support the ministerial resolution in favor of the donation of three battleships to the imperial navy at a cost of $35,000,000. The vacancy in the cabinet was filled by Mr. Louis Coderre, and a readjustment was made by which Mr. Coderre became secretary of state, Mr. Roche secretary of the interior and Mr. Rogers secretary of public works. Upon the failure of Sir Wilfred Laurier's amendment for a Canadian navy, the Liberals adopted obstructionist tactics; in consequence, it was found necessary to postpone the naval discussion while a makeshift supply bill was passed for running expenses; and then, on April 9, the first Canadian closure resolution was introduced by the government.—In November, Messrs. Curry, Ross, Gerrow, Mackay and Dennis were appointed senators from Nova Scotia and Dr. McMurphy senator from Prince Edward Island.—Canadian **shipping** interests received considerable attention. On May 1, Canadian steamers were given a monopoly of the mail service between Canada and Great Britain. In November a large floating dry-dock was launched at Montreal. In February the minister of marine announced that a system of subventions was contemplated to encourage shipbuilding. British Columbia passed a regulation for fishing licenses, intended to lessen the participation of the Japanese in the fishing industry. Several attempts were made by private and public agencies to increase the immigration of British labor into

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Canada.—On New Year's Day was celebrated the completion of the Transcontinental railway, by which wheat may be shipped direct from Saskatchewan to Port Colborne. Contracts were placed for nine additional government wireless stations on the Great Lakes.

AUSTRALIA.—In the **Commonwealth Parliament** a Monopolies Bill was passed, giving the government power to create and regulate monopolies in any industry. A bill was passed for better medical examination of immigrants. The coinage was put on a new copper-nickel basis, and £10,000,000 of paper was issued. The Commonwealth Bank opened its head office at Sydney on January 20. The new leader of the opposition, Mr. Joseph Cook, continued to attack the ministerial proposals for the initiative and referendum and for tariff revision along protectionist lines. Plans for the Australian **fleet** unit included the construction within three years of a battleship, three destroyers and two submarines. The universal military training requirements had brought in 178,000 registrations by December 31, but many infractions of the law were noticed. On March 12 Lord Demman laid the first stone of the new Federal capital of Australia at Canberra.—The intention of the **New South Wales** government to discontinue the use of the government house at Sydney as a vice-regal residence was thwarted by a judicial decision. Important steps were taken for the development of industry. Irrigated farms were opened in the Murrumbidgee valley; a new government railway opened up a large dairy country on the Manning river; the state Parliament approved a grant of £2,000,000 to further the iron industry at Newcastle; and the Commonwealth ministry determined to build railways into the now comparatively unoccupied Northern Territory. Sir Gerald Strickland succeeded Lord Chelmsford as governor of New South Wales in March and was replaced as governor of **West Australia** by Sir Harry Barron, whose former post as governor of **Tasmania** was transferred to Mr. William Macartney.

NEW ZEALAND.—The compulsory military service required by the **Defence Bill** and plans for the organization of a volunteer expeditionary force gave evidence of New Zealand's intention to share the military burden of the mother country.—The Waihi **strike**, after a duration of 29 weeks and a loss of $700,000 in wages, finally ended in the complete defeat of the anti-arbitration federation on December 6. The government's stand against the strikers caused the Labor Conference to pledge itself to wreck Mr. Massey's government.

SOUTH AFRICA.—The opposition of General Hertzog, minister of native affairs, to the imperialistic propaganda of the South African Unionist Congress re-opened the **racial question** in South Africa and so interfered with ministerial harmony that the Botha cabinet resigned on December 15. The refusal of a large section of the Nationalist party to support General Hertzog enabled General Botha to reconstitute his cabinet, omitting General Hertzog and Colonel Leuchars. The ministry then introduced in the House of Assembly proposals for contribution to the imperial **navy**. De-

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ferred rebates were abolished by the adoption in April of new freight and mail contracts with shipping lines.

INDIA.— The wounding of the **viceroy,** Lord Hardinge, by a bomb, thrown on the occasion of his state entry at Delhi on December 23, served to discredit the radical Nationalist and pan-Indian agitation; and a Conspiracy Bill was promptly introduced in the Legislative Council. In the general **provincial elections** the Bengal Nationalists were overwhelmingly defeated by the hitherto inconspicuous Moderates.—The **educational program** made public in February called for extension of the higher educational institutions and the doubling of the 91,000 existing primary schools with their 4,500,000 pupils. Grants from an anticipated budget surplus of £7,500,000 were promised for the furtherance of education, urban sanitation, and provincial administration. A bill was presented to the Legislative Council for the suppression of temple prostitution.

OTHER DEPENDENCIES.—The Chartered Company of **Rhodesia** was authorized to increase its Legislative Council to twelve elected and eight nominated members.—The **Federated Malay States'** Council proposed to donate a ship to the imperial navy.—Chinese dealers in **Hongkong** declared a boycott of English manufacturers.—The governor of **Malta** refused to make any concession to the irreconcilables who refused to sit in the Council of Government. The annual military contribution of £5000 was discontinued, pending the improvement of local finances.— Mr. Davidson, the new governor of **Newfoundland**, in opening the legislature declared for participation in imperial naval defence and removal of the duties on tea, sugar and salted meats.—On January 1 Sir Frederik Lugard was received with remarkable ceremonies by emirs and notables of **Nigeria** and, after carefully investigating the prisons at Kano, pronounced himself delighted with the improvement of Nigerian conditions.

V. CONTINENTAL EUROPE

FRANCE.—M. Armand Fallières' term of office as president of the republic expired in January. On the seventeenth of that month, the Chamber and Senate, in joint session assembled, elected as his successor M. Raymond Poincaré, who resigned the headship of the ministry in order to assume the presidency. The new cabinet formed by M. Briand took up the **Electoral Reform Bill** (see last RECORD, p. 759) which had been passed by the Chamber and referred to a Senate commission over which the "cabinet-breaker" M. Clémenceau presided. Inspired by the fear that the representation of minorities would strengthen the clerical party M. Clémenceau and M. Combes attacked the bill and secured its rejection by the Senate. The resulting deadlock between the two houses caused the downfall of the Briand ministry in February. M. Barthou succeeded in forming a new ministry in which eight members of the previous cabinet were retained, M. Klotz taking the department of the interior, M. Ratier justice, M. Dumont finance, M. Baudin marine, M. Étienne war, M.

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Pichon foreign affairs, M. Jean Morel colonies, M. Chéron labor, M. Massé posts and M. Clémentel agriculture. M. Barthou promised to attempt a reconciliation of the two houses through a compromise on the electoral reform question. For the time being, attention was distracted from the dissension by the government's vigorous **defence policy**. Appropriations of $14,000,000 and $84,000,000 were made for immediate use in increasing the garrisons on the eastern frontier and improving the equipment of the army. The most important measure, however, was the provision in clause 12 of the Army Bill for a return to the three-year term of military service without exemptions, which was approved on April 16 by the army commission of the Chamber. After securing final approval on April 5 for the old budget, pending since May 1912, the government announced its intention to introduce a **budget** for 1913–14 in which ample provision would be made for national defence.—Serious discontent with the militaristic policy of the government was manifested in a twenty-four-hour general strike and in the monster mass-meeting held outside the confines of Paris under the auspices of the Confédération Générale du Travail. M. Lecein, secretary of the Anarchist League, was imprisoned for a threatening speech against mobilization, and nineteen syndicalists were fined and imprisoned for sending anti-militaristic pamphlets to soldiers.

GERMANY.—The discontent aroused by the government's unwillingness to give adequate consideration to the suffering caused by high prices, even after the Reichstag had appointed a special commission to investigate the high cost of living, was increased by new and extremely burdensome military proposals. Opposition manifested itself also on the matter of the exclusion of the Jesuits and the policy pursued by the Prussian administration in Poland. The outburst of **Polish** patriotism in January in connection with the commemoration of the revolt of 1863 called attention to the oppression of the Poles in Prussia and elicited from the Reichstag a resolution objecting to the dispossession of Polish landowners under Prussian land laws. The conflict between the Center and the government had been reopened by action taken by the Bundesrat, at the end of November, against the attempt of the Bavarian government to construe Bismarck's **Jesuit Law** in a lenient manner. The clericals in the Reichstag retaliated by formulating a resolution, passed on February 19, repealing the Jesuit Law of 1872. Without the approval of the Bundesrat this resolution was of course ineffective: it was important only as indicating combined opposition to the government on the part of Centrists, Poles and Social-Democrats.—Militarism, strongly stimulated by the Balkan situation, gave vociferous support to the **Army Bill** published late in March. Fortifications and an increase of the peace footing of the army from 544,211 to 661,176 necessitated an estimated extraordinary expenditure of $262,500,000 for the following year, besides a recurring expenditure of $45,000,000 over and above the regular appropriation (see last RECORD, p. 760). According to the *Norddeutsche Allgemeine Zeitung*, the extraordinary expenditure was to be

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covered by a non-recurring levy on property, one-half of one per cent on all estates greater than $2000 and two per cent on incomes exceeding $10,000 a year, and the increase in ordinary expenditure was to be met by a property-increment tax, an inheritance tax and increased matricular contributions from the states of the empire.—A bill for uniform electoral laws throughout the empire was directed against the Prussian three-class system and was consequently condemned vigorously by the Conservative party conference in March.—In consequence of the sudden death of Herr von Kiderlen-Wächter, the imperial secretaryship of foreign affairs, was entrusted, late in December, to Herr von Jagow, ambassador at Rome.—The death of Freiherr von Erffa necessitated the election of a president for the **Prussian** Chamber of Deputies. Count von Schwerin-Löwitz was chosen. Upon the death in December of the nonagenarian Prince Regent Luitpold of **Bavaria**, it was suggested that the popular Prince Ludwig be made king. In accordance with his own desire, however, the prince was made regent. He inaugurated his administration by replacing the privy chancellorship by a civil and a military cabinet.—As a result of their failure to coöperate in the elections for the **Württemberg** Landtag, the parties of the Left lost their hegemony and the new legislature was evenly divided between the "blue-black" (Conservative-Clerical) block and the Progressive-Liberal-Socialist groups.—In **Saxony** a Public School Bill was defeated in the lower Chamber on the question of religious instruction.—As a protest against the strained relations along the Franco-German border (see *supra*, p. 352), the **Alsatian** Progressive, Center and Social Democratic parties called a public meeting in March to recommend to the Parliament of the Reichsland a pacific policy.

AUSTRIA-HUNGARY.—The burden of **military** preparations and unrest among the subordinate peoples of the joint monarchy were reflected in uneasy political conditions during the winter. The estimated cost of mobilization had reached almost $90,000,000 by January and must have been doubled by May. To cover this expense it was proposed to levy a new graduated income tax.—The **Austrian** Reichsrath was concerned mainly with provision for the extraordinary demands of the new war minister, General Krobatkin, a member of the extreme military party. According to the *Wiener Zeit*, the government was contemplating in the new Army Bill an increase of the peace footing by 50,000 men.—In response to the long-standing agitation for franchise reform in **Hungary**, the Lukacs cabinet prepared and put through a so-called Franchise Reform Bill. Residence and thirty-year age qualifications for working-class voters made the measure a mockery of the reform demanded by the opposition. After absenting itself regularly from the Chamber, the opposition appeared in March to protest against the passage of the government bill, and the session was in a turmoil until the police arrived. A general strike in favor of universal suffrage was delayed if not averted by the concentration of troops in Budapest.—State secretary M. Jankovics succeeded Count Zichy as Hungarian minister of public worship in February.

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RUSSIA.—It was evident, from the pressure exerted upon elections by the Home Office and the Holy Synod and from the address of the tsar to the newly convened **fourth Duma**, that the autocrat of all the Russias intended to minimize the influence of the Duma even as an advisory body. The withdrawal of disgruntled Nationalist candidates in many constituencies made it clear that this policy would arouse bitter antagonism, but the support which the Octobrists gave to the opposition, at the initial meeting of the Duma, in re-electing M. Rodzianko president, was unexpected. The temper of the Duma became even more evident when bills were introduced for religious equality, the admission of women to the bar and the abolition of serfdom in the Caucasus. On the other hand, the government came forward with proposals to limit the civil rights of subjects of foreign and Polish descent in some four provinces and to bring Finland completely under the imperial bureaucratic, military, educational and religious system. Moreover, the seeming compliance of the government with Austrian demands with regard to Scutari (see *supra*, p. 351) was highly unsatisfactory to the exponents of Panslavism, and a great demonstration was held in St. Petersburg to celebrate the fall of Scutari. The government promptly placed prohibitions on public meetings. The prevailing discontent was somewhat lessened, on the occasion of the **Romanoff tercentenary** celebration in March, by the issue of an imperial ukase providing $25,000,000 for the betterment of agricultural conditions and granting partial or complete amnesties to various grades of political offenders, among whom was the well known writer and exile, M. Maxim Gorky.—The **budget** for 1913 provided for an ordinary expenditure of 2,987,784,205 roubles ($1,523,769,945) and an extraordinary expenditure of 220,622,756 roubles, making a total of 3,208,406,961 ($1,636,287,549), with an estimated deficit of 29,264,123 roubles ($14,924,702) to be covered by loans.—In December M. Makaroff was succeeded as minister of the interior by M. Maklakoff.—The metropolitan of Moscow, Mgr. Vladimir, was appointed metropolitan of St. Petersburg and president of the Holy Synod.

ITALY AND THE HOLY SEE.—The militaristic and imperialistic enthusiasm generated by the Tripolitan war subsided rapidly after peace had been made (see last RECORD, p. 731), and the high cost of living, coupled with the prevalence of unemployment, was an active agency in stimulating Socialistic criticism of the increased **financial** and **military burdens.** It was alleged that the surplus of 101,000,000 *lire* ($20,200,000) which the minister of finance assigned for military operations in Libya had been obtained by disguised loans and by appropriating the anticipated excess of the income-tax receipts as far in advance as 1930. Nevertheless the admiralty decided in April to order four ships of a type intermediary between the "Cavour" and the superdreadnoughts, to be finished in 1917 at a cost of 85,000,000 *lire*.—The pacification of **Tripoli** was seriously interrupted in the spring by an insurrection in the Garian district under Soliman-el-Baroni and the invasion of the Orfella region by Sheikh Seif-el-

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Nasr from the Fezzan.—In December the diocese of Genoa was placed by **the pope** under a partial interdict, following the government's refusal of the *exequatur* to the new bishop. In February it was announced that new members of the noble pontifical guard would receive no salaries. In March and April the health of the pope was so seriously impaired by attacks of influenza that grave concern was felt for his life, and all audiences were suspended.—The **Eucharistic Congress** was held in Malta in April. The papal legate, Cardinal Ferrata, was transported thither in a British warship.

SPAIN.—The assassination, on November 12, of Señor Canalejas, the premier, and an unsuccessful attack on the life of King Alfonso, on April 13, were ascribed to revolutionary anarchists. The **new premier**, Count Romanones, adopted the policy of his predecessor. Conservative opposition brought about his resignation on December 31, but the support of King Alfonso enabled him to form a new cabinet. The Conservatives withdrew from the Chamber and Senate, intending to make the conduct of the government by the Liberal ministry impossible. The attempt, however, was unsuccessful; it merely served to increase the harmony between moderate Republicans and the administration. To gratify its anti-clerical supporters, the government proposed to take steps to eliminate compulsory **religious instruction** from the schools, and a royal order was issued excusing non-Catholic soldiers from hearing mass except on extraordinary occasions. At the same time, a friendly understanding was reached with the pope, and in February diplomatic relations were resumed with the Vatican.

PORTUGAL.—The coalition **ministry** of Dr. Duarte Leite (see last RECORD, p. 763) failed to secure support for its program of electoral reform, increased taxation of agricultural property, consolidation of the internal and floating debt and issue of $35,000,000 additional paper currency. The cabinet, shaken by a disorderly Democratic demonstration in the Chamber, fell early in January, and Dr. Costa, the Radical Republican leader, formed a ministry with Senhor A. Ribeiro as minister of colonies; Senhor P. Bastos, war; Senhor A. M. Silba, public works; Senhor Freites Ribeiro, marine; and Senhor G. Teixeira, foreign affairs.—On April 27 a group of Republican extremists attacked the barracks with bombs and revolvers. They were speedily dispersed, and over a hundred were imprisoned.—The severe treatment of **political prisoners** was censured by domestic and foreign journals; and on January 28 the minister of justice, at the suggestion of the president, presented a bill for the reform of the prison system.—River traffic was tied up in February by a **strike** of the lightermen on the Tagus.

TURKEY.—After the **military reverses** of October and November (see last RECORD, pp. 729, 730, and *supra*, p. 350) had thrown Constantinople into a panic, it was easy for Kiamil Pasha to crush the already discredited Young Turk party (see last RECORD, pp. 763–765) and to imprison its leaders, including Ismail Djumbalat, Talaat Bey, Suleiman Nazif and Muhi-ed-Din Bey. There seemed to be little real opposition to his attempts

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to terminate the disastrous war, and a Grand Council of Notables, meeting in January, expressed its unreserved approbation of the ministerial policy. The **Young Turk** leaders, however, having been released on December 8, stigmatized the proposal to surrender Adrianople and the islands as cowardly. With "save the national honor or perish in the attempt" as a slogan, the Committee of Union and Progress instituted a popular demonstration on January 23 and overturned the government. Commander-in-Chief Nazim Pasha, who had incurred the enmity of the Young Turks by his attempts to keep politics out of the army, was assassinated; two other opponents of the committee, Reshid Bey and Sadik Bey, were imprisoned. The organizers of the *coup d' état* rewarded their followers with government posts. Mahmud Shevket Pasha, as grand vizier, and Prince Said Halim, as president of the council, headed the new ministry, in which the portfolios were distributed as follows: war, Mahmud Shevket Pasha; interior, Hadji Adil Bey; foreign affairs, Mukhtar Bey; marine, General Tshuruk Sula Mahmud; justice, Ibrahim Pasha; finance, Rifaat Bey; public works, Batzaria Effendi; pious foundations, Hairi Bey; agriculture, Djelal Bey; posts, Oskian; and education, Shukri Bey. The unyielding attitude of the new government in the peace negotiations caused the renewal of the war (see *supra*, p. 350). Izzet Bey was appointed commander-in-chief of the army, and after a few days the grand vizier joined the forces in the field, leaving Said Pasha to fill his place.—The failure of the government to punish the murderers of Nazim Pasha and the fact that, instead of dying in the attempt to "save the national honor," the new ministry was actually negotiating for peace on a far less desirable basis than that accepted by Kiamil Pasha, increased the bitterness of the army party. The precarious footing of the committee government was indicated by numerous rumors of half-hatched conspiracies in March and April.—Moreover, the failure of the proposed French loan (see last RECORD, p. 765) put the minister of **finance** in a quandary over the payment of the army; and, although temporary relief was afforded by the issue of $27,500,000 in treasury notes secured by a five-per-cent tax on realty, the refusal of London bankers to honor $4,000,000 of these notes made the situation again critical in April.—The discontent in **Syria** was partially due, however, to a corner in the wheat market, by which prices were almost doubled.—Pending the final action of the powers, a group of **Albanian** politicians set up a provisional government in December, with Ismail Kemal Bey as president and foreign minister. Late in April it was rumored that Essad Pasha, the commander who had surrendered Scutari, was about to establish himself as king of Albania.

BELGIUM.—Soon after the opening of the **Parliament** on November 12, the Socialist leader M. Vandervelde introduced a **Suffrage Bill** to do away with the constitutional anomaly whereby 993,070 men with one vote apiece were hopelessly outvoted by 395,866 with two and 308,683 with three votes each. The Conservatives and extreme Clericals secured the rejection of the bill in February. The Social Democrats were still willing

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to come to terms with the government; but when it became clear that M. Schollaert, the prime minister, was not so seriously inclined to conciliation, the Easter congress of the party delared itself, by a practically unanimous vote, in favor of a **general strike** for equal suffrage. Accordingly, on April 14, a "strike of folded arms" was called, and soon some 500,000 men were out. Without indulging in any violence whatever, the strikers so tied up industry that after ten days the government capitulated and passed a resolution similar to that offered by M. Vandervelde. Considerable adverse criticism was provoked by the **Military Bill** which, if passed, would give the field army 170,000 men by 1918 and necessitate a supplementary annual expense of over $4,000,000.

OTHER EUROPEAN STATES.—In the November elections in **Norway,** the Liberals obtained 71 seats in the Storthing; the Conservative-Moderate group, 25; and the Socialists, 21. As a result of this Liberal victory, the Conservative government gave place in January to a Liberal ministry under M. Gunnar Knudsen. The appointment of the "anti-alcohol" delegate, M. Abrahamsen, to a post in the ministry was taken as significant of the strength of the prohibition movement.—The April municipal elections in Stockholm, **Sweden,** showed an increase of 15 per cent in the Socialist vote and of 30 per cent in the Liberal vote.—The government of **Denmark** presented in the Folkething a Constitutional Reform Bill, reducing the minimum age of voters from 30 to 25 years and allowing women to sit in the Folkething as well as to vote for its members.—In December the Federal Assembly of **Switzerland** elected as president and vice-president of the confederation two Radicals, MM. Edouard Müller and Arthur Hoffman. The demand for popular election of the Federal Council was stimulated in April by the friction between the two chambers over the ratification of the St. Gothard Convention, drawn up in Berne, 1909, and subsequently ratified by Germany and Italy. The ratification was finally effected on April 9.—The absence of government pressure on the elections in **Rumania** gave the Liberals a few more seats in the Parliament, but the Conservative supporters of the government still numbered almost four-fifths of the Chamber and of the Senate. M. Majorescu remained at the head of the ministry and received enthusiastic support for his firm foreign policy (see *supra*, p. 351). In December four large battleships were purchased to strengthen the Black Sea fleet. This and the expense of mobilization necessitated the negotiation of a loan of $30,000,000 in Germany.—The financial cost of the Balkan war weighed heavily on **Bulgaria's** resources, but she was greatly assisted by Russian banks.—The assassination of King George of **Greece** at Salonica on March 18 by a partially insane Greek, Alexander Skinas, aroused great indignation among the people. The king was succeeded by his son, Prince Constantine, who had become a popular hero by the victories won under his leadership in the Balkan war.

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VI. ASIA AND AFRICA

JAPAN.—The **cabinet** of M. Saionje, although supported by a Seiyukwai (Constitutionalist) majority in the Diet, was wrecked by militarist opposition to retrenchment in the expenditure on the Korean garrison (see last RECORD, p. 767), culminating in the resignation of Lieutenant General Uyehara, minister of war. On December 20 Prince Katsura formed a ministry, in which M. Wakatsuki held the portfolio of finance and Baron Kotoas that of foreign affairs; in January the latter was succeeded by M. Takaaki Kato. Prince Katsura soon abandoned the hope of ruling without a struggle with the Seiyukwai majority in the Diet; but by proroguing that body repeatedly he postponed the crisis until February 10. On that date there was an anti-government riot in Tokio, in which several persons were killed and scores wounded. Prince Katsura then resigned and Admiral Yamamoto secured the support of a **coalition** of the Seiyukwai and the Kokuminto (People's party) for a ministry constituted as follows: Admiral Yamamoto, premier; Baron Takahashi, finance; Viscount Kei Hara, home affairs; M. Matsuda, justice; M. Okuda, communications; Baron Motoda, education; Baron Makino, foreign affairs; Baron Kikoshi, war; and Baron Saito, marine. The coalition ministry adopted a policy in which adequate provision for national defence was not to interfere with the lightening of the tax burden as proposed by the Saionje government. In the budget passed by the Diet on March 15 the government claimed to have effected a saving of $25,000,000, but the total expenditure was increased by $3,700,000.—Resentment against the proposed Californian land legislation (see *supra*, p. 355) was voiced in mass-meetings held in Tokio in April.

CHINA.—Realizing that the stability of his government depended upon maintaining friendly relations with the powers until an **international loan** could be negotiated, President Yuan Shih-Kai was not unduly strenuous in his objections to Russian aggression in Mongolia (see *supra*, p. 353). The foreign minister, Liang Men-ting, refused to carry out the policy of his chief and was promptly replaced by Lu Cheng-Hsiang. Meanwhile Dr. Sun Yat-sen and his patriotic socialistic party, which had joined with other groups to form the Kuo Ming Tang ("all one brotherhood"), had been agitating against the pacific policy of the government. It was alleged by this party that Yuan Shih-Kai was unduly strengthening his personal power by unlawful means. The assassination at Shanghai in March of ex-Minister Sung, which was laid at the door of the provisional president, further embittered partisan feelings. Finally, when the conclusion of the international loan was undertaken by the ministry on its own responsibility, the opposition threatened to refuse to recognize this action.—The first **Chinese Parliament** was opened on April 8. The sanguine disposition of the new legislature was evidenced by the introduction of a multitude of bills. Among these were proposals to nationalize the railways, to establish a state salt monopoly, to systematize the national and provincial taxes, to reorganize the universities and to connect them with the primary schools

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by the foundation of provincial high schools, and to establish a bank with a capital of $60,000,000 on the plan of the Bank of England—In spite of the antagonism of the British government, Chinese officials continued to oppose the **opium traffic**; in Changsha a woman was shot for persistence in the vice. In February it was reported that work on the Hukuang railway would be begun simultaneously by English, German and American engineers.—Lung Yii, formerly empress dowager, died in February.

PERSIA.—The shooting of Captain Eckford (see *supra*, p. 354) was the most serious illustration of a general condition of lawlessness among the tribesmen. Claiming that a firm hand was needed to maintain order, the reactionary element agitated strongly during the autumn for the return of Saad-ed-Dowleh, desiring to place him at the head of the government. This movement was further strengthened in December by insults offered to Treasurer-General Mornard (a Belgian) by Bakhtiari, who demanded a government appropriation for their own benefit. In January the ministry was overthrown and on the 17th a coalition government came into power, with Ag-ed-Alach-Sultan as premier. A Russo-British loan (see *supra*, p. 354) was negotiated by the new government for the purpose of adequately policing the caravan routes.

AFRICAN STATES.—The industrial prosperity of **Egypt** was indicated by the harvesting of the largest cotton crop on record and was further assured by the completion of the heightened Assuan dam, by which a million acres of the Nile valley were gained for agriculture.—In **Abyssinia** an attempt of Lij Yassu, the heir to the throne, to dissolve the body-guard of King Menelik resulted in a two-hour conflict between the troops of the heir and the body-guard.

[For colonies in Asia and Africa, see the United States, the British Empire and the Continental European states, *supra*.]

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